June 11, 2004

Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

AOR 2004-32

Re: Request for an Advisory Opinion

Dear Sir or Madam:

This request for an Advisory Opinion is submitted on behalf of Spirit Airlines, Inc., pursuant to 2 U.S.C. 435f and 11 C.F.R. 112.1. Specifically, we would like to confirm that the Spirit Airlines PAC may solicit the directors and senior employees of Oaktree Capital Management LLC (Oaktree) as either part of the restricted class or as part of the expanded class.

Spirit is the largest privately held U.S. airline and the sponsor of the Spirit Airlines, Inc. PAC. Oaktree Capital Management LLC (a California LLC) is a private investment firm that manages several funds which have invested a total of $125 million in Spirit Airlines for 51% control of the company. The vehicles that actually purchased Spirit shares were OCM Spirit Holdings LLC (a Delaware LLC) which purchased a 48.7% interest and OCM POF Foreign Holdings LLC which purchased a 2.3% interest. Thus, securities representing 51% (a controlling interest in the voting stock) of Spirit are held by funds managed by Oaktree.

Oaktree has eleven directors that manage the funds that own 51% of Spirit's shares. Oaktree has appointed four of the seven members of Spirit's Board of Directors. As such, Oaktree has the ability to direct or participate in the governance of Spirit through formal and informal procedures. Because of the four Oaktree Board appointees, there is a formal or ongoing relationship between Spirit and Oaktree. As part of Spirit's Board, Oaktree has the ability to approve the appointment of Spirit's officers. Additionally, Oaktree has an active significant role in Spirit and its future given that board approval is required for most important decisions. The four Oaktree appointed Board members include two Oaktree principals.

We would appreciate receiving an advisory opinion concerning the application of the Act and Commission regulations to the specific activity set forth in this request.

Sincerely,

Yvonne L. Ramos
Assistant General Counsel and
Director Governmental & Community
Affairs

FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 24, 2004

Yvonne L. Ramos
Assistant General Counsel and
Director Governmental & Community Affairs
Spirit Airlines, Inc.
2800 Executive Way
Miramar, FL 33025

Dear Ms. Ramos:

This refers to your letter on behalf of Spirit Airlines, Inc. ("Spirit") dated June 11, 2004, which requests advice concerning application of the Federal Election Campaign Act of 1971, as amended (the "Act"), to the possible solicitation by Spirit Airlines, Inc. PAC (the "PAC") of directors and senior employees of Oaktree Capital Management LLC ("Oaktree"), a private investment firm.

You state that Oaktree manages several funds that invested $125 million in Spirit for 51% control of the company. Specifically, you state that Spirit shares were purchased by OCM Spirit Holdings LLC ("OCM Spirit") (48.7% interest) and OCM POF Foreign Holdings LLC ("OCM POF Foreign") (2.3% interest). You also state, as indication of "a formal or ongoing relationship between Spirit and Oaktree," that Oaktree appointed four of the seven members of Spirit's Board of Directors. In addition, you state that Oaktree has the ability to approve the appointment of officers and has "an active and significant role in Spirit and its future."

The Act authorizes the Commission to issu an advisory opinion in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. 437f(a). Commission regulations explain that such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c).

Your inquiry requires a more complete description of the facts in order to proceed with an advisory opinion. Therefore, please provide the following information:

1. Please confirm that OCM Spirit and OCM POF Foreign are the only two Oaktree-managed funds that have invested in Spirit. Additionally, please

fully describe the interests held in Spirit by each Oaktree managed fund. In your response, please quantify the amount of the interests either in shares (or other relevant unit) of ownership.

2. Please provide details regarding the corporate relationship between Oaktree, OCM Spirit, and OCM POF Foreign. In your response, please indicate whether OCM Spirit and OCM POF Foreign are wholly owned subsidiaries of Oaktree established by Oaktree. Additionally, please identify the interests in OCM Spirit and OCM POF Foreign, if any, held by other entities or parties and compare those interests to those held by Oaktree.

3. Please clarify whether Spirit, or only the PAC, will solicit Oaktree's directors and senior employees.

Upon receipt of your response, this Office will give further consideration to your inquiry. If you have any questions about the advisory opinion process, or this letter, please contact Esa L. Sferra, a staff attorney in this Office, or Brad C. Deutsch, Assistant General Counsel, at 202-694-1650.

Sincerely,

Rosemary C Smith

Rosemary C. Smith
Associate General Counsel

SPIRIT AIRLINES

2800 Executive Way
Miramar, FL 33025
954 447 7965
Fax 954 447 7979

July 22, 2004

2004 JUL 23 P 3:08

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

Ms. Rosemary C. Smith
Associate General Counsel
Federal Election Commission
Office of General Counsel
999 E Street, N. W.
Washington, D.C. 20463

Re: Your letter dated June 24, 2004

Dear Ms. Smith:

This letter responds to your request of June 24, 2004, for additional information concerning the request for an advisory opinion filed on behalf of Spirit Airlines, Inc. ("Spirit"). For your ease of reference, our answers appear below each of the questions you have raised.

1) **Please confirm that OCM Spirit Holdings, LLC ("OCM Spirit") and POF Spirit Foreign Holdings, LLC ("POF Foreign") are the only two Oaktree-managed funds that have invested in Spirit. Additionally, please fully describe the interests held in Spirit by each Oaktree-managed fund. In your response, please quantify the amount of the interests either in shares (or other relevant unit) of ownership.**

OCM Spirit and POF Foreign are the only two Oaktree-managed LLCs that directly hold shares of Spirit. As described in greater detail below in the answer to Question 2, they are the legal entities through which two underlying Oaktree-managed funds, Oaktree Principal Opportunities Fund II, L.P. ("OPO Fund II"), and Oaktree Principal Opportunities Fund III, L.P. ("OPO Fund III"), invested in Spirit.

The ownership interests in Spirit Airlines of the relatively few foreign limited partners of OPO Fund II and OPO Fund III are held by POF Foreign. The domestic limited partners of OPO Fund II and OPO Fund III invested in Spirit via POF Spirit Domestic Holdings, LLC, as more fully described below.

POF Spirit Domestic Holdings, LLC holds a 77.9% interest in OCM Spirit, the vehicle that purchased a 48.7% direct interest in Spirit (OCM Spirit also has non-Oaktree members, identified in the answer to Question 2). POF Foreign purchased a 2.3% direct interest in Spirit, which, combined with OCM Spirit's holdings, leads to a 51% controlling share of Spirit.

For your convenience, attached to this letter are two charts, which diagram the structure of the Oaktree investment in Spirit.

2) **Please provide details regarding the corporate relationship between Oaktree, OCM Spirit, and POF Foreign. In your response, please indicate whether OCM Spirit and POF Foreign are wholly owned subsidiaries of Oaktree established by Oaktree. Additionally, please identify the interests in OCM Spirit and POF Foreign, if any, held by other entities or parties and compare those interests to those held by Oaktree.**

By way of general background, the various Oaktree funds, like most diversified private equity vehicles, are marketed to a wide variety of wealthy individuals and institutional investors worldwide, such as university endowments and pension funds. The investment vehicle in each fund is ordinarily a limited partnership. Oaktree Capital Management, LLC maintains control by acting as general partner of each such fund.

The need for multiple investment entities in this instance reflects regulatory considerations, specifically the need to separate the U.S. citizen and non-citizen elements of the two established Oaktree funds described above, OPO Fund II and OPO Fund III, into discrete legal entities. This separation facilitates the U.S. Department of Transportation in determining the degree of non-citizen ownership in the airline, which is limited pursuant to the Federal Transportation Code, 49 U.S.C. 40102.

As noted, securities representing 51% of the voting equity of Spirit are held by OCM Spirit and POF Foreign. Oaktree Capital Management, LLC is the Managing Member of OCM Spirit, POF Foreign, and POF Spirit Domestic Holdings, LLC.

There is no non-Oaktree interest in POF Foreign. Only the foreign limited partners of OPO Fund II and OPO Fund III have invested in POF Foreign.

There are four non-Oaktree entities which invested in Spirit (via direct investment in OCM Spirit) and which are all U.S. Citizens. Their interests comprise 22.1% of OCM Spirit. Thus, the ownership interests in OCM Spirit are held as follows:

1) POF Spirit Domestic Holdings, LLC (domestic partners of OPO Fund II and OPO Fund III) - 77.9%

POF Spirit Domestic Holdings, LLC
c/o Oaktree Capital Management, LLC
333 South Grand Avenue
28th Floor
Los Angeles, CA 90071

2) A combination of two domestic companies - 17.9%

(a) Highfields Capital Management
200 Clarendon Street, # 51
Boston, MA 02116

(b) Seabury Group
540 Madison, 17th Floor
New York, NY 10022

3) Par Capital – 3.6%

PAR Investment Partners, L.P.
One International Place
Suite 2401
Boston, MA 02110

4) Randolph Street Partners – 0.6%

Randolph Street Partners VI
c/o Kirkland & Ellis LLP
200 E. Randolph Dr.
Chicago, IL 60601

3) Please clarify whether Spirit, or only the PAC, will solicit Oaktree's directors and senior employees.

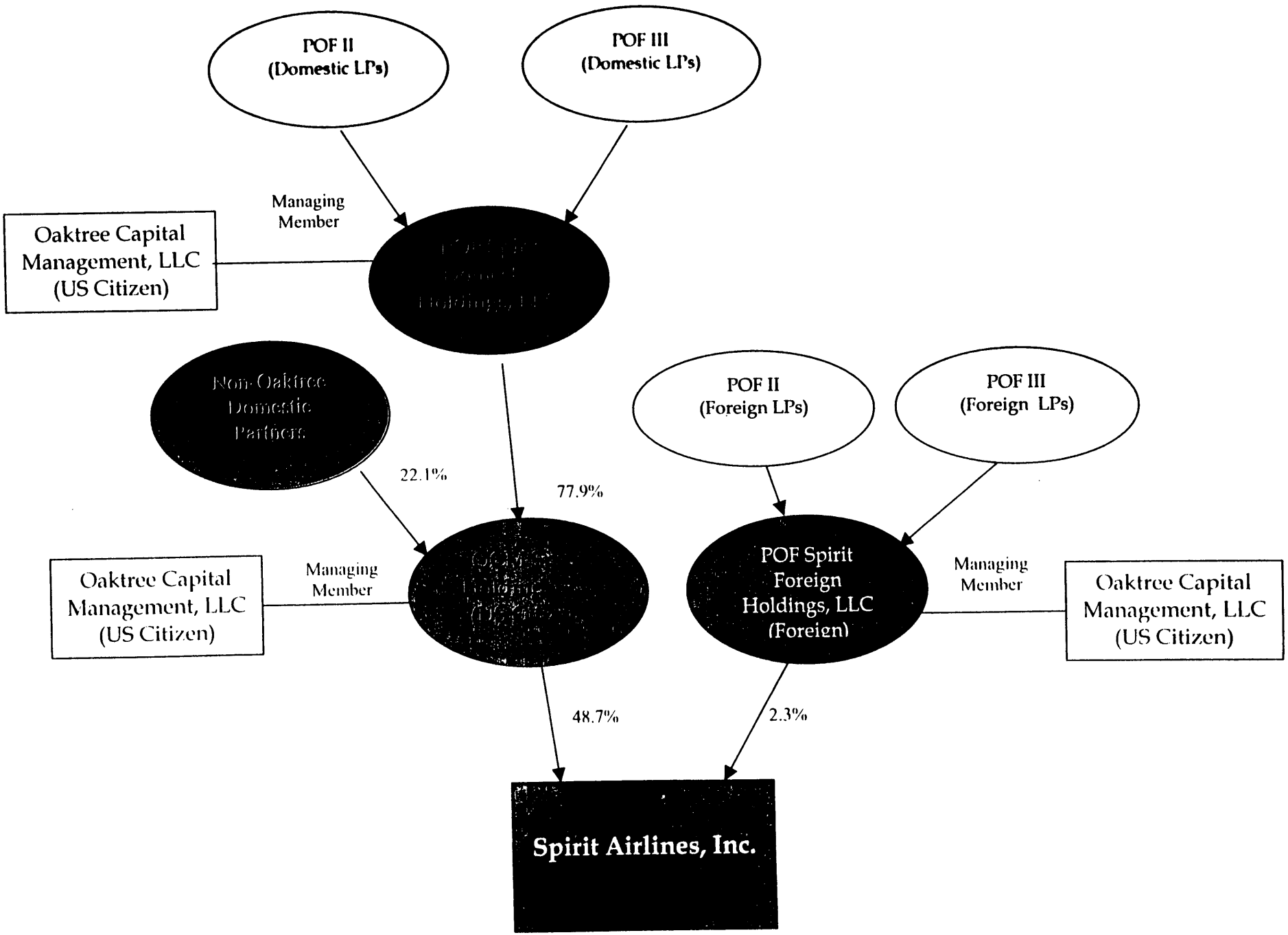
The Spirit Airlines, Inc. PAC will be the only entity to solicit Oaktree's directors and senior employees.

I hope that this letter addresses the questions you have raised. Please contact me should you need any further information.

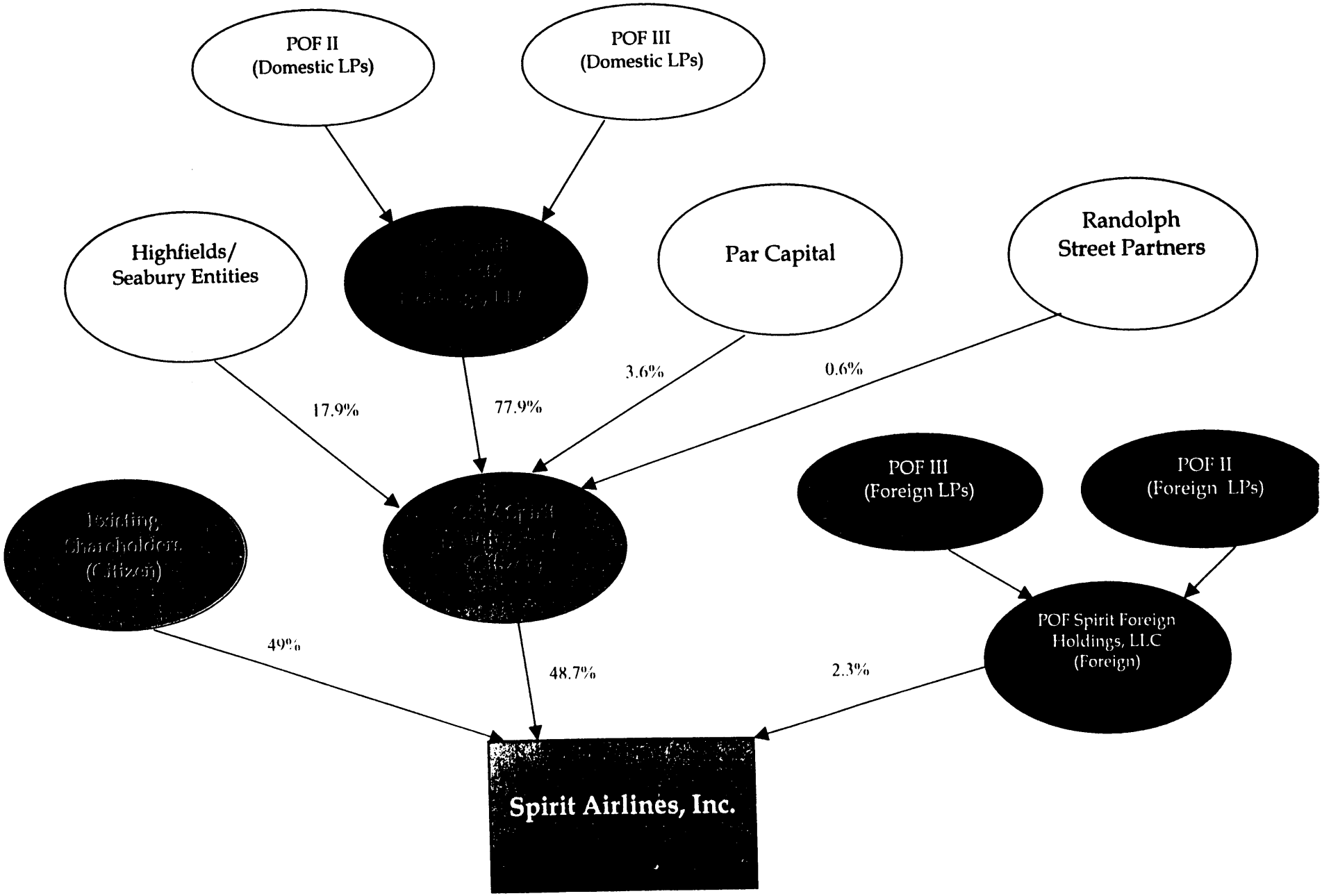
Sincerely,

Mark S. Kahan
Vice Chairman and General Counsel

Spirit Airlines, Inc.: *Oaktree Investment Entities*



Spirit Airlines, Inc.: *Current Capital Structure*



VIA OVERNIGHT MAIL

August 5, 2004

2004 AUG -6 A 11:32

Ms. Rosemary C. Smith
Associate General Counsel
Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Re: Telephone Request from Esa L. Sferra for Additional Information

Dear Ms. Smith:

Enclosed please find the corporate governance documents for Spirit Airlines, Inc. and OCM Spirit Holdings, LLC (OCM) requested by Ms. Esa Sferra on August 2, 2004. Specifically, we are providing Spirit's Articles of Incorporation and Bylaws and OCM's Operating Agreement.

I hope that these documents satisfy your request. Please contact me should you need any further information.

Sincerely,

Yvonne L. Ramos
Assistant General Counsel and
Director Governmental & Community Affairs

AMENDED AND RESTATED BYLAWS
OF SPIRIT AIRLINES, INC.

ARTICLE I - STOCKHOLDERS

Section 1. Annual Meeting.

(1) An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, on such date, and at such time as the Board of Directors shall each year fix, which date shall be within thirteen (13) months of the last annual meeting of stockholders.

Section 2. Special Meetings.

(1) Special meetings of the stockholders, other than those required by statute, may be called at any time by the Board of Directors acting pursuant to a resolution adopted by a majority of the Whole Board. For purposes of these By-Laws, the term "Whole Board" shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships. Special meetings of stockholders shall also be called by the secretary upon the written request of the holders of shares entitled to cast not less than ten percent (10%) of all the votes entitled to be cast at such meeting. Such request shall state the purpose of such meeting and the matters proposed to be acted on at such meeting. The secretary shall inform such stockholders of the reasonably estimated cost of preparing and mailing notice of the meeting and, upon payment to the Corporation of such costs, the secretary shall give notice to each stockholder entitled to notice of the meeting. Unless requested by the stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting, a special meeting need not be called to consider any matter which is substantially the same as a matter voted on at any special meeting of the stockholders held during the preceding twelve (12) months. The Board of Directors may postpone or reschedule any previously scheduled special meeting.

Section 3. Notice of Meetings.

Notice of the place, if any, date, and time of all meetings of the stockholders, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, shall be given, not less than ten (10) nor more than sixty (60) days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the Delaware General Corporation Law or the Certificate of Incorporation of the Corporation).

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment

is taken; provided, however, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, shall be given in conformity herewith. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

Section 4. Quorum.

At any meeting of the stockholders, the holders of a majority of all of the shares of the stock entitled to vote at the meeting, present in person or by proxy, shall constitute a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law. Where a separate vote by a class or classes or series is required, a majority of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter.

If a quorum shall fail to attend any meeting, the chairman of the meeting may adjourn the meeting to another place, if any, date, or time.

Section 5. Organization.

Such person as the Board of Directors may have designated or, in the absence of such a person, the Chairman of the Board or, in his or her absence, the President of the Corporation or, in his or her absence, such person as may be chosen by the holders of a majority of the shares entitled to vote who are present, in person or by proxy, shall call to order any meeting of the stockholders and act as chairman of the meeting. In the absence of the Secretary of the Corporation, the secretary of the meeting shall be such person as the chairman of the meeting appoints.

Section 6. Conduct of Business.

The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him or her in order. The chairman shall have the power to adjourn the meeting to another place, if any, date and time. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

Section 7. Proxies and Voting.

At any meeting of the stockholders, every stockholder entitled to vote may vote in person or by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to this paragraph may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy,

facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

The Corporation may, and to the extent required by law, shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting may, and to the extent required by law, shall, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. Every vote taken by ballots shall be counted by a duly appointed inspector or inspectors.

All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law, all other matters shall be determined by a majority of the votes cast affirmatively or negatively.

Section 8. Stock List.

A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in his or her name, shall be open to the examination of any such stockholder for a period of at least 10 days prior to the meeting in the manner provided by law.

The stock list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by law. This list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

ARTICLE II - BOARD OF DIRECTORS

Section 1. Number, Election and Term of Directors.

Subject to the rights of the holders of any series of preferred stock to elect directors under specified circumstances, the number of directors shall be fixed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by a majority of the Whole Board.

Section 2. Newly Created Directorships and Vacancies.

Subject to the rights of the holders of any series of preferred stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall, unless otherwise required by law or by resolution of the Board of Directors, be filled only by a majority vote of the directors then in office, though less than a quorum (and not by stockholders), and directors so chosen shall serve for a term expiring at the

annual meeting of stockholders or until such director's successor shall have been duly elected and qualified. No decrease in the number of authorized directors shall shorten the term of any incumbent director.

Section 3. Regular Meetings.

Regular meetings of the Board of Directors shall be held at such place or places, on such date or dates, and at such time or times as shall have been established by the Board of Directors and publicized among all directors. A notice of each regular meeting shall not be required.

Section 4. Special Meetings.

Special meetings of the Board of Directors may be called by the Chairman of the Board, the President or by a majority of the Whole Board and shall be held at such place, on such date, and at such time as they or he or she shall fix. Notice of the place, date, and time of each such special meeting shall be given to each director by whom it is not waived by mailing written notice not less than five (5) days before the meeting or by telephone or by telegraphing or telexing or by facsimile or electronic transmission of the same not less than twenty-four (24) hours before the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.

Section 5. Quorum.

At any meeting of the Board of Directors, a majority of the total number of the Whole Board shall constitute a quorum for all purposes. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date, or time, without further notice or waiver thereof.

Section 6. Participation in Meetings By Conference Telephone.

Members of the Board of Directors, or of any committee thereof, may participate in a meeting of such Board of Directors or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other and such participation shall constitute presence in person at such meeting.

Section 7. Conduct of Business.

At any meeting of the Board of Directors, business shall be transacted in such order and manner as the Board of Directors may from time to time determine, and all matters shall be determined by the vote of a majority of the directors present, except as otherwise provided herein or required by law. Action may be taken by the Board of Directors without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of

Directors. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 8. Compensation of Directors.

Unless otherwise restricted by the certificate of incorporation, the Board of Directors shall have the authority to fix the compensation of the directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or paid a stated salary or paid other compensation as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed compensation for attending committee meetings.

ARTICLE III - COMMITTEES

Section 1. Committees of the Board of Directors.

The Board of Directors may from time to time designate committees of the Board of Directors, with such lawfully delegable powers and duties as it thereby confers, to serve at the pleasure of the Board of Directors and shall, for those committees and any others provided for herein, elect a director or directors to serve as the member or members, designating, if it desires, other directors as alternate members who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of any member of any committee and any alternate member in his or her place, the member or members of the committee present at the meeting and not disqualified from voting, whether or not he or she or they constitute a quorum, may by unanimous vote appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member.

Section 2. Conduct of Business.

Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. Adequate provision shall be made for notice to members of all meetings; one-third (1/3) of the members shall constitute a quorum unless the committee shall consist of one (1) or two (2) members, in which event one (1) member shall constitute a quorum; and all matters shall be determined by a majority vote of the members present. Action may be taken by any committee without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

ARTICLE IV - OFFICERS

Section 1. General Provisions.

The officers of the Corporation shall include a chairman of the board, a chief executive officer, a president, a chief financial officer, a secretary and a treasurer and may include a vice chairman of the board, one or more vice presidents, a chief operating officer, one or more assistant secretaries and one or more assistant treasurers. In addition, the Board of Directors may from time to time appoint such other officers with such powers and duties as they shall deem necessary or desirable. The officers of the Corporation shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of stockholders, except that the chief executive officer may appoint one or more vice presidents, assistant secretaries and assistant treasurers. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor is elected and qualifies or until his death, resignation or removal in the manner hereinafter provided. Any two or more offices except president and vice president may be held by the same person. In its discretion, the Board of Directors may leave unfilled any office except that of president, treasurer and secretary. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. Vacancies.

A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 3. Chief Executive Officer.

The Board of Directors shall designate a chief executive officer. In the absence of such designation, the chairman of the board (or, if more than one, the co-chairmen of the board in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall be the chief executive officer of the Corporation. The chief executive officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation.

Section 4. Chief Operating Officer.

The Board of Directors may designate a chief operating officer. The chief operating officer shall have the responsibilities and duties as set forth by the Board of Directors or the chief executive officer.

Section 5. Chief Financial Officer.

The Board of Directors may designate a chief financial officer. The chief financial officer shall have the responsibilities and duties as set forth by the Board of Directors or the chief executive officer.

Section 6. Chairman of the Board.

The Board of Directors shall designate a chairman of the board (or one or more co-chairmen of the board). The chairman of the board shall preside over the meetings of the Board of Directors and of the stockholders at which he shall be present. If there be more than one, the co-chairmen designated by the Board of Directors will perform such duties. The chairman of the board shall perform such other duties as may be assigned to him or them by the Board of Directors.

Section 7. President.

The president or chief executive officer, as the case may be, shall, in general, supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a chief operating officer by the Board of Directors, the president shall be the chief operating officer. He may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

Section 8. Vice Presidents.

In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned to him by the president or by the Board of Directors. The Board of Directors may designate one or more vice presidents as executive vice president or as vice president for particular areas of responsibility.

Section 9. Secretary.

The secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the trust records and of the seal of the Corporation; (d) keep a register of the post office address of each stockholder which shall be furnished to the secretary by such stockholder; (e) have general charge of the share transfer books of the Corporation; and (f) in general perform such other duties as from time to time be assigned to him by the chief executive officer, the president or by the Board of Directors.

Section 10. Treasurer.

The treasurer shall have the custody of the funds and securities of the Corporation and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other value effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. In the absence of a designation of a chief financial officer by the Board of Directors, the treasurer shall be the chief financial officer of the Corporation.

The treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so require, an account of all his transactions as treasurer and of the financial condition of the Corporation.

If required by the Board of Directors, he shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Corporation, in case of his death, resignation, retirement or removal from office, all books, papers, vouchers, moneys and other property of whatever kind in his possession or under his control belonging to the Corporation.

Section 11. Assistant Secretaries and Assistant Treasurers.

The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the president or the Board of Directors. The assistant treasurers shall, if required by the Board of Directors, give bonds for the faithful performance of their duties in such sums and with such surety or sureties as shall be satisfactory to the Board of Directors.

Section 12. Salaries.

The salaries of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director.

Section 13. Delegation of Authority.

The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

Section 14. Removal.

Any officer of the Corporation may be removed at any time, with or without cause, by the Board of Directors.

Section 15. Action with Respect to Securities of Other Corporations.

Unless otherwise directed by the Board of Directors, the President or any officer of the Corporation authorized by the President shall have power to vote and otherwise act on behalf of the Corporation, in person or by proxy, at any meeting of stockholders of or with respect to any action of stockholders of any other Corporation in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other Corporation.

ARTICLE V - STOCK

Section 1. Certificates of Stock.

Each stockholder shall be entitled to a certificate signed by, or in the name of the Corporation by, the President or a Vice President, and by the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer, certifying the number of shares owned by him or her. Any or all of the signatures on the certificate may be by facsimile.

Section 2. Transfers of Stock.

Transfers of stock shall be made only upon the transfer books of the Corporation kept at an office of the Corporation or by transfer agents designated to transfer shares of the stock of the Corporation. Except where a certificate is issued in accordance with Section 4 of Article V of these By-laws, an outstanding certificate for the number of shares involved shall be surrendered for cancellation before a new certificate is issued therefor.

Section 3. Record Date.

In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders, or to receive payment of any dividend or other distribution or allotment of any rights or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may, except as otherwise required by law, fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted and which record date shall not be more than sixty

(60) nor less than ten (10) days before the date of any meeting of stockholders, nor more than sixty (60) days prior to the time for such other action as hereinbefore described; provided, however, that if no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, and, for determining stockholders entitled to receive payment of any dividend or other distribution or allotment of rights or to exercise any rights of change, conversion or exchange of stock or for any other purpose, the record date shall be at the close of business on the day on which the Board of Directors adopts a resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 4. Lost, Stolen or Destroyed Certificates.

In the event of the loss, theft or destruction of any certificate of stock, another may be issued in its place pursuant to such regulations as the Board of Directors may establish concerning proof of such loss, theft or destruction and concerning the giving of a satisfactory bond or bonds of indemnity.

Section 5. Regulations.

The issue, transfer, conversion and registration of certificates of stock shall be governed by such other regulations as the Board of Directors may establish.

ARTICLE VI - NOTICES

Section 1. Notices.

If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the Delaware General Corporation Law.

Section 2. Waivers.

A written waiver of any notice, signed by a stockholder or director, or waiver by electronic transmission by such person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in such a waiver. Attendance at any meeting shall constitute waiver of notice except attendance for the sole purpose of objecting to the timeliness of notice.

ARTICLE VII - MISCELLANEOUS

Section 1. Facsimile Signatures.

In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these By-laws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.

Section 2. Corporate Seal.

The Board of Directors may provide a suitable seal, containing the name of the Corporation, which seal shall be in the charge of the Secretary. If and when so directed by the Board of Directors or a committee thereof, duplicates of the seal may be kept and used by the Treasurer or by an Assistant Secretary or Assistant Treasurer.

Section 3. Reliance upon Books, Reports and Records.

Each director, each member of any committee designated by the Board of Directors, and each officer of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board of Directors so designated, or by any other person as to matters which such director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 4. Fiscal Year.

The fiscal year of the Corporation shall be as fixed by the Board of Directors.

Section 5. Time Periods.

In applying any provision of these By-laws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

Section 6. Investment Policies.

Subject to the provisions of the Certificate of Incorporation, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole discretion.

ARTICLE VIII - INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. Right to Indemnification.

Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or an officer of the Corporation or is or was serving at the request of the Corporation as a director, officer or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer or trustee or in any other capacity while serving as a director, officer or trustee, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith; provided, however, that, except as provided in Section 3 of this Article VIII with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

Section 2. Right to Advancement of Expenses.

In addition to the right to indemnification conferred in Section 1 of this Article VIII, an indemnitee shall also have the right to be paid by the Corporation the expenses (including attorney's fees) incurred in defending any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that, if the Delaware General Corporation Law requires, an advancement of expenses incurred by an indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Section 2 or otherwise.

Section 3. Right of Indemnitee to Bring Suit.

If a claim under Section 1 or 2 of this Article VIII is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days, the indemnitee may at any time thereafter bring suit against the Corpora-

tion to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (ii) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the Delaware General Corporation Law. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VIII or otherwise shall be on the Corporation.

Section 4. Non-Exclusivity of Rights.

The rights to indemnification and to the advancement of expenses conferred in this Article VIII shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Corporation's Certificate of Incorporation, By-laws, agreement, vote of stockholders or directors or otherwise.

Section 5. Insurance.

The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

Section 6. Indemnification of Employees and Agents of the Corporation.

The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation to the fullest extent of the provisions of this Article with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

Section 7. Nature of Rights.

The rights conferred upon indemnitees in this Article VIII shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the indemnitee's heirs, executors and administrators. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment or repeal.

ARTICLE IX - AMENDMENTS

In furtherance and not in limitation of the powers conferred by law, the Board of Directors is expressly authorized to adopt, amend and repeal these By-Laws subject to the power of the holders of capital stock of the Corporation to adopt, amend or repeal the By-Laws; provided, however, that, with respect to the power of holders of capital stock to adopt, amend and repeal By-Laws of the Corporation, notwithstanding any other provision of these By-Laws or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class or series of the capital stock of the Corporation required by law, these By-Laws or any preferred stock, the affirmative vote of the holders of at least two-thirds percent of the voting power of all of the then-outstanding shares entitled to vote generally in the election of directors, voting together as a single class, shall be required to adopt, amend or repeal any provision of these By-Laws.

ARTICLE X- LIMITATIONS OF OWNERSHIP BY NON-CITIZENS

Section 1. Definitions.

For purposes of this Article X, the following definitions shall apply:

(1) "Act" shall mean Subtitle VII of Title 49 of the United States Code, as amended, or as the same may be from time to time amended.

(2) "Beneficial Ownership," "Beneficially Owned" or "Owned Beneficially" refers to beneficial ownership as defined in Rule 13d-3 (without regard to the 60-day provision in paragraph (d)(1)(i) thereof) under the Securities Exchange Act of 1934, as amended.

(3) "Foreign Stock Record" shall have the meaning set forth in Section 3 of this Article X.

(4) "Non-Citizen" shall mean any person or entity who is not a "citizen of the United States" (as defined in Section 41102 of the Act and administrative interpretations issued

by the Department of Transportation, its predecessors and successors, from time to time), including any agent, trustee or representative of a Non-Citizen.

(5) "Own or Control" or "Owned or Controlled" shall mean (i) ownership of record, (ii) Beneficial Ownership or (iii) the power to direct, by agreement, agency or in any other manner, the voting of Stock. Any determination by the Board of Directors as to whether Stock is Owned or Controlled by a Non-Citizen shall be final.

(6) "Permitted Percentage" shall mean 25% of the voting power of the Stock.

(7) "Stock" shall mean the outstanding capital stock of the Corporation entitled to vote; provided, however, that for the purpose of determining the voting power of Stock that shall at any time constitute the Permitted Percentage, the voting power of Stock outstanding shall not be adjusted downward solely because shares of Stock may not be entitled to vote by reason of any provision of this Article X.

Section 2. Non-Citizen Ownership.

It is the policy of the Corporation that, consistent with the requirements of the Act, Non-Citizens shall not Own and/or Control more than the Permitted Percentage and, if Non-Citizens nonetheless at any time Own and/or Control more than the Permitted Percentage, the voting rights of the Stock in excess of the Permitted Percentage shall be automatically suspended in accordance with Sections 3 and 4 below.

Section 3. Foreign Stock Record.

The Corporation or any transfer agent designated by it shall maintain a separate stock record (the "Foreign Stock Record") in which shall be registered Stock known to the Corporation to be Owned and/or Controlled by Non-Citizens. It shall be the duty of each stockholder to register his, her or its Stock if such stockholder is a Non-Citizen. The Foreign Stock Record shall include (i) the name and nationality of each such Non-Citizen and (ii) the date of registration of such shares in the Foreign Stock Record. In no event shall shares in excess of the Permitted Percentage be entered on the Foreign Stock Record. In the event that the Corporation shall determine that Stock registered on the Foreign Stock Record exceeds the Permitted Percentage, sufficient shares shall be removed from the Foreign Stock Record so that the number of shares entered therein does not exceed the Permitted Percentage. Stock shall be removed from the Foreign Stock Record in reverse chronological order based upon the date of registration therein.

Section 4. Suspension of Voting Rights.

If at any time the number of shares of Stock known to the Corporation to be Owned and/or Controlled by Non-Citizens exceeds the Permitted Percentage, the voting rights of Stock Owned and/or Controlled by Non-Citizens and not registered on the Foreign Stock Record at the time of any vote or action of the stockholders of the Corporation shall, without further action by the Corporation, be suspended. Such suspension of voting rights shall automatically

terminate upon the earlier of the (i) transfer of such shares to a person or entity who is not a Non-Citizen, or (ii) registration of such shares on the Foreign Stock Record, subject to the last two sentences of Section 3 of this Article X.

Section 5. Certification.

(1) The Corporation may by notice in writing (which may be included in the form of proxy or ballot distributed to stockholders in connection with the annual meeting or any special meeting of the stockholders of the Corporation, or otherwise) require a person that is a holder of record of Stock or that the Corporation knows to have, or has reasonable cause to believe has, Beneficial Ownership of Stock to certify in such manner as the Corporation shall deem appropriate (including by way of execution of any form of proxy or ballot of such person) that, to the knowledge of such person: (i) all Stock as to which such person has record ownership or Beneficial Ownership is Owned and Controlled only by citizens of the United States; or (ii) the number and class or series of Stock owned of record or Beneficially Owned by such person that is Owned and/or Controlled by Non-Citizens is as set forth in such certificate.

(2) With respect to any Stock identified in response to clause (1)(ii) above, the Corporation may require such person to provide such further information as the Corporation may reasonably require in order to implement the provisions of this Article X.

(3) For purposes of applying the provisions of this Article X with respect to any Stock, in the event of the failure of any person to provide the certificate or other information to which the Corporation is entitled pursuant to this Section 5, the Corporation shall presume that the Stock in question is Owned and/or Controlled by Non-Citizens.

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Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "SPIRIT AIRLINES, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE EIGHTH DAY OF MARCH, A.D. 1994, AT 12:45 O'CLOCK P.M.

CERTIFICATE OF OWNERSHIP, FILED THE ELEVENTH DAY OF MARCH, A.D. 1994, AT 1:30 O'CLOCK P.M.

RESTATED CERTIFICATE, FILED THE TENTH DAY OF FEBRUARY, A.D. 2004, AT 6:35 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID CORPORATION.

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

2383760 8100H

AUTHENTICATION: 3009953

040217804

DATE: 03-24-04

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 12:45 PM 03/08/1994
944035566 - 2383760

CERTIFICATE OF INCORPORATION

OF

SPIRIT AIRLINES, INC.

The undersigned, in order to form a corporation for the purposes hereinafter stated, under and pursuant to the provisions of the General Corporation Law of the State of Delaware does hereby certify as follows:

FIRST: The name of the corporation is: SPIRIT AIRLINES, INC. (hereinafter the "Corporation").

SECOND: The post office address of the initial registered office of the Corporation in the State of Delaware is 32 Loockerman Square, Suite L-100, Dover, County of Kent, Delaware 19901. The name of the registered agent at such address is The Prentice-Hall Corporation System, Inc.

THIRD: The nature of the business or purposes to be conducted or promoted by the Corporation is as follows:

(a) To purchase, acquire, hold, own, improve, develop, sell, convey, assign, release, mortgage, encumber, use, lease, hire, manage, deal in and otherwise dispose of real property and personal property of every name and nature or any interest therein, improved or otherwise, including stocks and securities of other corporations; to loan money; to take securities for the payment of all sums due the Corporation; to sell, assign and release such securities;

(b) To acquire all or any part of the goodwill, rights, property, business and interests of any individual, association, partnership, joint venture, corporation or other legal entity; to engage in, operate, hold, utilize, enjoy and in any manner dispose of the whole or any part of the rights, property, business and interests so acquired; to assume in connection therewith any liabilities of any such individual, association, partnership, joint venture, corporation or other legal entity;

(c) To acquire, by purchase, subscription or in any other manner, take, receive, hold, use, employ, sell, assign, transfer, exchange, pledge, mortgage, lease, dispose of and otherwise deal in and with any shares of stock or other shares, voting trust certificates, bonds, debentures, notes, mortgages or other obligations, securities or evidences of indebtedness, and any certificates, receipts, warrants or other instruments evidencing rights or options to receive, purchase or subscribe for same or representing any other rights or interests therein or in any property or assets, issued or created by any individual, association, partnership, joint venture, corporation, government

(or subdivision or agency thereof) or other legal entity, wherever organized and wherever doing business; to possess and exercise in respect thereof any and all of the rights, powers and privileges of individual holders including, without limitation, the right to vote any shares of stock so held or owned and, upon a distribution of the assets or a division of the profits of the Corporation, to distribute any such shares of stock or other shares, voting trust certificates, bonds or other obligations, securities or evidences of indebtedness (or the proceeds thereof) among the stockholders of the Corporation;

(d) To apply for, obtain, purchase or otherwise acquire any patents, copyrights, licenses, trademarks, trade names, rights, processes, formulas and the like; to use, exercise, develop and grant licenses in respect of, sell and otherwise turn to account the same;

(e) To purchase (or otherwise acquire), hold, sell, retire, reissue or otherwise dispose of shares of its own stock of any class in any manner now or hereafter authorized or permitted by law, and to pay therefor, with cash or other property;

(f) To borrow or raise money and to issue bonds, debentures, notes or other obligations of any nature (and in any manner permitted by law) including obligations convertible into stock of the Corporation, for money so borrowed or in payment for property purchased, or for any other lawful consideration, and to secure the payment thereof, and of the interest thereon, by mortgage upon, pledge, conveyance or assignment in trust of, the whole or any part of the property of the Corporation, real or personal, including contract rights, whether at the time owned or thereafter acquired; to sell, pledge, discount or otherwise dispose of such bonds, debentures, notes or other obligations of the Corporation;

(g) To aid, by loan, subsidy, guaranty or in any lawful manner whatsoever, any individual, association, partnership, joint venture, corporation or other legal entity whose stocks, bonds, notes, debentures or other obligations, securities or evidences of indebtedness are in any manner directly or indirectly held or guaranteed by the Corporation, or by any corporation in which the Corporation may have an interest di ectly or indirectly as stockholder, creditor, guarantor or otherwise, or whose shares or securi ies are owned by the Corporation; to do any and all lawfu acts and things designed to protect, preserve, improve or enhance the value of any stocks, bonds, notes, debentures or other obligations, securities or evidences of indebtedness of any individual, association, partnership, joint venture, corporation or other legal entity in which the Corporation has an interest directly or indirectly as a stockholder, creditor, guarantor or otherwise, or whose shares or

securities are owned by the Corporation, or to lend money with or without collateral security;

(h) To guarantee the payment of dividends upon any shares of stock of any other association or corporation; to guarantee the performance of any contract by any individual, association, partnership, joint venture, corporation or other legal entity; to endorse or otherwise guarantee the payment of principal and interest, or either, of any bonds, debentures, notes, securities or other evidences of indebtedness created or issued by any such individual, association, partnership, joint venture, corporation or other legal entity, it not being necessary that any such guaranty or endorsement shall be intended to result in any benefit to the Corporation (it being understood that in no way shall the Corporation act as a surety company);

(i) To carry out all or any part of the purposes set forth herein as principal, broker, factor, agent, contractor or otherwise, either alone, through or in conjunction with any individual, association, partnership, corporation or other legal entity; to make, execute and perform any contracts or agreements and to do any other acts and things for the accomplishment of any of the purposes set forth herein or incidental to such purposes, or which at any time may appear conducive to or expedient for the accomplishment of any such purposes;

(j) To carry out all of the purposes set forth herein in any or all states, territories, districts, dependencies and possessions of the United States of America and any foreign country; to maintain offices and agencies in any or all states, territories, districts, dependencies and possessions of the United States of America and any foreign country;

(k) To do any act or thing and exercise any power suitable, convenient or proper for the accomplishment of any of the purposes set forth herein or incidental to such purposes, or which at any time may appear conducive to or expedient for the accomplishment of any of such purposes; and

(l) To engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware as amended.

The foregoing enumeration of the purposes of the Corporation is made in furtherance and not in limitation of the powers conferred upon the Corporation by law. The mention of any particular purpose is not intended in any manner to limit or restrict the generality of any other purpose mentioned, or to limit or restrict any of the powers of the Corporation. The Corporation shall have, enjoy and exercise all of the powers and rights now or hereafter conferred by the laws of the State of Delaware upon corporations of a similar character, it being the

intention that the purposes set forth in each of the paragraphs of this Article shall, except as otherwise expressly provided, in no way be limited or restricted by reference to or inference from the terms of any other clause or paragraph of this or any other Article of this Certificate of Incorporation, or of any amendment thereto, and shall each be regarded as independent, and construed as powers as well as purposes provided, however, that nothing herein contained shall be deemed to authorize or permit the Corporation to carry on any business or exercise any power, or do any act which a corporation formed under the general laws of the State of Delaware may not at the time lawfully carry on or do.

FOURTH: Notwithstanding the provisions of Article Third, this Corporation shall remain dormant until the effective date on which Spirit Airlines, Inc., a Michigan corporation, is reorganized into this Corporation in a transaction which will qualify as a reorganization under § 368(a)(1)(F) of the Internal Revenue Code. Nothing in this paragraph shall prevent the stockholders, directors or officers of the Corporation from executing and delivering to Spirit Airlines, Inc. such agreements or documents necessary to effectuate such a transaction, and from filing such certificates or other documents with the appropriate governmental agencies in furtherance thereof.

FIFTH: The Corporation shall have one class of stock. The total amount of authorized capital stock of the Corporation is 50,000 shares of voting common stock having a par value of $1.00 per share.

SIXTH: The name and mailing address of the sole incorporator is as follows: Keith G. Swirsky, c/o Galland, Kharasch, Morse & Garfinkle, P.C., 1054 Thirty-first Street, N.W., Suite 200, Washington, D.C. 20007. The name and mailing address of the person who is to serve as the initial director of the Corporation until the first annual meeting of stockholders or until his successor is duly elected and qualified, is Edward M. Homfeld, 18121 East Eight Mile Road, Suite 100, Eastpointe, Michigan 48021.

SEVENTH: The following provisions are hereby adopted for the purpose of defining, limiting, and regulating the powers of the Corporation, the directors, officers, and stockholders:

A. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute and the Certificate of Incorporation, and all rights conferred upon stockholders herein are granted subject to this reservation.

B. A director of the Corporation shall not be personally liable to the Corporation or its stockholders for

monetary damages for breach of fiduciary duty as a director, except for (i) breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) breach of Section 174 of the Delaware General Corporation Law (or any successor provision), or (iv) any transaction from which the director derived an improper personal benefit.

C. Each person who was or is a party or in any way involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (collectively "Proceeding"), as a result of that person being or having been a director or officer of the Corporation, of another corporation or of a partnership, joint venture, trust or other enterprise at the Corporation's request, including service with respect to employee benefit plans, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but only to the extent that any amendment permits the Corporation to provide broader indemnification rights), against (i) all expense, liability and loss, including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and (ii) amounts paid or to be paid in settlement, reasonably incurred or suffered by such person in connection with any Proceeding (all collectively "Indemnified Amounts"). Such indemnification shall inure to the benefit of that person's heirs, executors and administrators.

1. Expenses incurred by an officer or director in defending any Proceeding shall be paid by the Corporation in advance of the final disposition of such Proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in these Articles. Such expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

2. The right to indemnification and the Corporation's payment of any Indemnified Amount shall not be exclusive of any other right which any person may have or hereafter acquired under any statute, provision of the Certificate of Incorporation, bylaw agreement, vote of stockholders or disinterested directors or otherwise.

3. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such

expense, liability or loss under the Delaware General Corporation Law.

EIGHTH: The provisions for the regulation of the internal affairs of the Corporation are as stated in the Bylaws of the Corporation, as adopted and amended from time to time.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Incorporation this 8th day of March, 1994.

Keith G. Swirsky, Incorporator

CERTIFICATE OF OWNERSHIP AND MERGER

OF

SPIRIT AIRLINES, INC.

AND

SPIRIT AIRLINES, INC.

It is hereby certified that:

1. The constituent business corporations participating in the merger herein certified are:

(i) Spirit Airlines, Inc., which is incorporated under the laws of the State of Michigan (hereinafter referred to as "Parent Corporation"); and

(ii) Spirit Airlines, Inc., which is incorporated under the laws of the State of Delaware (hereinafter referred to as "Surviving corporation").

2. The Parent Corporation owns 100% of all outstanding shares of stock of Surviving corporation.

This space is intentionally left blank.

3. The resolutions of the Board of Directors and sole shareholder of Parent corporation adopting, certifying, executing and acknowledging the Agreement of Merger and Plan of Reorganization is attached hereto and incorporated herein, the same being adopted on March 9, 1994.

4. The sole stockholder of Parent corporation dispensed with a meeting and vote of the stockholders, and the sole stockholder entitled to vote consented in writing, pursuant to the provisions of Section 450.1141 of the Business Corporation Act of the State of Michigan, to the adoption of the foregoing Agreement of Merger and Plan of Reorganization.

5. The name of the Surviving corporation in the merger herein certified is Spirit Airlines, Inc., a Delaware corporation, which will continue its existence as said Surviving corporation under its present name upon the effective date of said merger pursuant to the General Corporation Law of the State of Delaware.

FURTHER RESOLVED, That the actions of the officers of the Corporation in causing the incorporation of Spirit Airlines, Inc., a Delaware corporation, with an original capitalization of 50,000 shares of capital stock with a par value of $1.00 each, are hereby ratified and approved and the appropriate officers are authorized to give this Corporation's approval as sole Shareholder of Spirit Airlines, Inc. of the Agreement of Merger and Plan of Reorganization; and

FURTHER RESOLVED, That upon due approval of the Agreement of Merger and Plan of Reorganization by the Board of Directors and sole Shareholder of Spirit Airlines, Inc. (Delaware), that the proper officers of this Corporation be and hereby are authorized and directed to file a Certificate of Merger in the State of Delaware, Certificate of Merger in the State of Michigan, and such other certificates or documents as may be necessary or desirable to effectuate the Merger; and

FURTHER RESOLVED, That the proper officers of this Corporation be, and they hereby are, authorized and directed to take such additional action as may be necessary or desirable to effect the intent of the foregoing resolutions.

This action shall, upon its execution by all of the Directors and Shareholders of the Corporation, be effective as of the 9th day of March, 1994, and, with respect to the matters treated in the above actions, shall remain in full force and effect until all of this Corporation's rights, duties, powers and privileges with respect to such matters shall have been fully ratified, performed, discharged, released or otherwise concluded or terminated.

Date: 3/9/94

Edward Homfeld

being the sole Director of the Corporation.

Date: 3/9/94

Edward Homfeld

being the sole Shareholder of the Corporation.

State of Delaware
Secretary of State
Division of Corporations
Delivered 06:35 PM 02/10/2004
FILED 06:35 PM 02/10/2004
SRV 040093505 - 2383760 FILE

CERTIFICATE
OF
RESTATED CERTIFICATE OF INCORPORATION
OF
SPIRIT AIRLINES, INC.

* * * *

Adopted in accordance with the provisions
of Section 242 and Section 245 of the General Corporation Law
of the State of Delaware

* * * *

The undersigned, on behalf of Spirit Airlines, Inc., a corporation duly organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY as follows:

FIRST: The Corporation filed its original Certificate of Incorporation with the Delaware Secretary of State on March 8, 1994 (the "Original Certificate") under the name of Spirit Airlines, Inc.

SECOND: The Board of Directors of the Corporation duly adopted resolutions in accordance with Section 242 and Section 245 of the General Corporation Law of the State of Delaware authorizing the Corporation to amend, integrate and restate the Certificate of Incorporation in its entirety to read as set forth in ***Exhibit A*** attached hereto and made a part hereof (the "Restated Certificate").

THIRD: In accordance with Section 228, Section 242 and Section 245 of the General Corporation Law of the State of Delaware, the Restated Certificate was duly approved and adopted pursuant to a written consent signed by the holders of all of the issued and outstanding shares of capital stock of the Corporation entitled to vote thereon.

* * * * *

IN WITNESS WHEREOF, the undersigned on behalf of the Corporation for the purpose of amending and restating the Restated Certificate of Incorporation of the Corporation pursuant to the General Corporation Law of the State of Delaware, under penalties of perjury does hereby declare and certify that this is the act and deed of the Corporation and the facts stated herein are true, and accordingly has hereunto signed this Certificate of Restated Certificate of Incorporation this 10th day of February, 2004.

Spirit Airlines, Inc.,
a Delaware corporation

By: _____

Name: Maria Knutsen-Pugh
Title: Secretary

EXHIBIT A

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

SPIRIT AIRLINES, INC.

ARTICLE ONE
NAME

The name of the corporation is Spirit Airlines, Inc. (the "Corporation").

ARTICLE TWO
ADDRESS OF REGISTERED AGENT

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, in the City of Wilmington. The name of its registered agent at such address is The Corporation Trust Company, **located in New Castle County.**

ARTICLE THREE
PURPOSE

The nature of the business or the purpose to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE FOUR
CAPITAL STOCK

1. Authorized Shares.

The total number of shares of stock which the Corporation has authority to issue is 22,500,000 shares, consisting of:

(a) 500,000 shares of Class A Convertible Preferred Stock, par value $0.01 per share (the "Preferred Stock");

(b) 20,000,000 shares of Class A Common Stock, par value $0.01 per share (the "Class A Common Stock"); and

(c) 2,000,000 shares of Class B Common Stock, par value $0.01 per share (the "Class B Common Stock" and together with the Class A Common Stock, the "Common Stock").

The Preferred Stock and the Common Stock are hereafter collectively referred to as the "Capital Stock." The Capital Stock shall have the rights, preferences and limitations set forth below.

2. Preferred Stock.

(a) Dividends.

(i) General Obligation. When and as declared by the Corporation's Board of Directors and to the extent permitted under the General Corporation Law of Delaware, the Corporation shall pay preferential dividends in cash to the holders of the Preferred Stock as provided in this Section 2(a). Except as otherwise provided herein, dividends on each share of the Preferred Stock (a "Preferred Share") shall accrue on a daily basis at the rate of 12% per annum of the sum of the Liquidation Value thereof plus all accumulated and unpaid dividends thereon from and including the date of issuance of such Preferred Share (or, in the case of accumulated and unpaid dividends, from and including the Dividend Reference Date (as defined below) on which they were accumulated) to and including the first to occur of (i) the date on which the Liquidation Value of such Preferred Share, plus all accrued and unpaid dividends thereon, is paid to the holder thereof in connection with the liquidation of the Corporation or the redemption of such Preferred Share by the Corporation, (ii) the date on which such Preferred Share is converted into shares of Conversion Stock hereunder or (iii) the date on which such Preferred Share is otherwise acquired by the Corporation. Such dividends shall accrue whether or not they have been declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends. The date on which the Corporation initially issues any Preferred Share shall be deemed to be its "date of issuance" regardless of the number of times transfer of such Preferred Share is made on the stock records maintained by or for the Corporation and regardless of the number of certificates which may be issued to evidence such Preferred Share.

(ii) Dividend Reference Dates. To the extent not paid on March 31, June 30, September 30, and December 31 of each year, beginning March 31, 2004 (the "Dividend Reference Dates"), all dividends which have accrue on each Preferred Share outstanding during the three-month period (or other period in the case of the initial Dividend Reference Date) ending upon each such Dividend Reference Date shall be accumulated (and dividends shall accrue thereon pursuant to Section 2(a)(i)) and shall remain accumulated dividends with respect to such Preferred Share until paid to the holder thereof in cash.

(iii) Distribution of Partial Dividend Payments. Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued with respect to the Preferred Stock, such payment shall be distributed pro rata among the holders

of the Preferred Stock based upon the aggregate accrued but unpaid dividends on the Preferred Shares held by each such holder.

(b) Liquidation.

(i) Generally. Upon any liquidation, dissolution and/or winding up of the Corporation (whether voluntary or involuntary, and including any transaction deemed to be a liquidation, dissolution and winding up of the Corporation pursuant to Section 2(b)(ii) below):

(A) each holder of Preferred Stock shall be entitled to be paid in respect of each Preferred Share then held by such holder, prior to and in preference to any distribution or payment to be made in respect of any Junior Securities or to be made in respect of any Preferred Shares pursuant to Section 2(b)(i)(B) or Section 2(b)(i)(C) below, an amount in cash equal to all accrued and unpaid dividends on such Preferred Share;

(B) each holder of Preferred Stock shall be entitled to be paid in respect of each Preferred Share then held by such holder, prior to and in preference to any distribution or payment to be made in respect of any Junior Securities or to be made in respect of any Preferred Shares pursuant to Section 2(b)(i)(C) below, an amount in cash equal to the Liquidation Value of each such Preferred Share; and

(C) after giving effect to each distribution to each holder of Preferred Stock of all amounts to which such holder is entitled pursuant to Sections 2(b)(i)(A) and 2(b)(i)(B) immediately preceding in respect of all Preferred Shares held by such holder, each holder of Preferred Stock shall be entitled to receive in cash that amount which would be distributed to such holder if all of the Corporation's assets which are then available or which thereafter become available for distribution to holders of Corporation capital stock shall be distributed to the holders of Common Stock and Preferred Stock, pro rata based on holdings of Common Distribution Shares determined for each such distribution. Each share of Common Stock outstanding upon commencement of the liquidation, dissolution or winding up of the Corporation shall be deemed to be one "Common Distribution Share" for purposes of all distributions pursuant to this Section 2(b)(i)(C) or Section 3(d) of this Article Four. Also, each share of Preferred Stock shall be deemed to represent (x) zero "Common Distribution Shares" in respect of distributions pursuant to this Section 2(b)(i)(C) or Section 3(d) of this Article Four until the aggregate amount so distributed in respect of shares of Common Stock constituting Common Distribution Shares, divided by the number of shares of Common Stock constituting Common Distribution Shares, shall be equal to the Catch-Up Amount for such share of Preferred Stock, and (y) with respect to all amounts distributed thereafter pursuant to this Section 2(b)(i)(C) or Section 3(d) of this Article Four, that number of "Common Distribution Shares" equal to the Liquidation Value of such share of Preferred Stock divided by the Conversion Price in effect upon commencement of such liquidation, dissolution or winding up of the Corporation in respect of all other distributions pursuant to this Section 2(b)(i)(C) or Section 3(d) of this Article Four.

(ii) Deemed Liquidations. Upon the election of the holders of a majority of the Preferred Shares then outstanding, which election shall be delivered to the Corporation within 45 days after receipt of the Corporation's notice to the holders of Preferred Stock pursuant

to Section 2(b)(iii) below, the consummation of any of the following transactions shall be deemed to be a liquidation, dissolution and winding up of the Corporation for purposes of this Section 2(b) (and, upon consummation thereof, each holder of Preferred Stock shall be entitled to receive, in exchange for cancellation of such holder's Preferred Shares, payment from the Corporation of the amounts payable under this Section 2(b) with respect to such holder's Preferred Shares upon a liquidation, dissolution and/or winding up of the Corporation): (i) any sale, exchange, conveyance, issuance or other disposition, or series of sales, exchanges, conveyances, issuances or other dispositions, of shares of capital stock by the Corporation or any holders thereof if the Person or Persons who held securities constituting Control Stock immediately prior to such transaction cease to hold securities constituting Control Stock immediately thereafter (a "Change of Control"); (ii) any merger, consolidation, reorganization or similar transaction with or into another entity or entities (whether or not the Corporation is the surviving entity) that results in a Change of Control; or (iii) any sale or transfer by the Corporation of all or substantially all of its assets, or any sale or transfer by the Corporation and/or any of its Subsidiaries of all or substantially all of the Corporation's assets determined with its Subsidiaries on a consolidated basis. For purposes of the foregoing, "Control Stock" means the outstanding Capital Stock of the Corporation which possesses the voting power (under ordinary circumstances) to elect a majority of the Corporation's Board of Directors.

(iii) Notice of Liquidations; Distribution of Partial Liquidation Proceeds. Except as otherwise agreed by the holders of a majority of the Preferred Shares then outstanding, not less than 60 days prior to the payment date stated therein, the Corporation shall mail written notice of any liquidation, dissolution and/or winding up of the Corporation (including any transaction deemed to be a liquidation, dissolution and winding up of the Corporation under Section 2(b)(ii) above) to each record holder of Preferred Stock, setting forth in reasonable detail the amount of proceeds to be paid with respect to each Preferred Share and each share of Common Stock in connection with such liquidation, dissolution and/or winding up of the Corporation. If, upon any liquidation, dissolution and/or winding up of the Corporation (whether voluntary or involuntary, and including any transaction deemed to be a liquidation, dissolution and winding up of the Corporation under Section 2(b)(ii) above), the Corporation's assets to be distributed among the holders of the Preferred Stock are insufficient to permit payment to such holders of the aggregate amount which they are entitled to be paid under Section 2(b)(i)(A) or Section 2(b)(i)(B) above, then the entire assets available to be distributed to the Corporation's stockholders shall be distributed pro rata among the holders of the Preferred Stock based upon (i) in the case of Section 2(b)(i)(A), the aggregate accrued and unpaid dividends of the Preferred Stock held by each such holder, and (ii) in the case of Section 2(b)(i)(B), the aggregate Liquidation Value of the Preferred Stock held by each such holder.

(c) Priority of Preferred Stock on Dividends and Redemptions. So long as any Preferred Stock remains outstanding, without the prior written consent of the holders of a majority of the outstanding shares of Preferred Stock, the Corporation shall not, nor shall it permit any Subsidiary to, redeem, purchase or otherwise acquire directly or indirectly any Junior Securities, nor shall the Corporation nor any of its Subsidiaries directly or indirectly pay or declare any dividend or make any distribution upon any Junior Securities; provided that, in the discretion of the Corporation's Board of Directors, the Corporation may repurchase shares of Capital Stock from present or former employees or directors of the Corporation or any of its

Subsidiaries in accordance with any repurchase provisions contained in any employment agreement or other agreement with such employees containing such provisions.

(d) Redemptions.

(i) Redemptions Upon Request. At any time and from time to time after February 11, 2010, the holders of a majority of the outstanding Preferred Shares may request redemption of all or any portion of the outstanding Preferred Shares (the "Redemption Shares") by delivering written notice of such request to the Corporation (a "Redemption Request"). The Corporation shall be required to redeem all Preferred Shares with respect to which any Redemption Requests have been made at a price per Preferred Share equal to the Liquidation Value thereof, plus all accrued and unpaid dividends thereon, within 45 days after receipt of the initial Redemption Request.

(ii) Redemption Payments. For each Preferred Share that is to be redeemed hereunder, the Corporation shall be obligated on the Redemption Date to pay to the holder thereof (upon surrender by such holder at the Corporation's principal office of the certificate representing such Preferred Share) an amount in cash in immediately available funds equal to the Liquidation Value of such Preferred Share, plus all accrued and unpaid dividends thereon. If the funds of the Corporation legally available for redemption of Preferred Shares on any Redemption Date are insufficient to redeem the total number of Preferred Shares to be redeemed on such date, those funds which are legally available shall be used to redeem the maximum possible number of Preferred Shares pro rata among the holders of the Preferred Shares to be redeemed based upon the aggregate Liquidation Value of such Preferred Shares held by each such holder, plus all accrued and unpaid dividends thereon. At any time thereafter when additional funds of the Corporation are legally available for the redemption of Preferred Shares, the Corporation shall set aside such funds and promptly mail written notice (the "Availability Notice") to the holders of a majority of the Preferred Shares providing such holders with the option (i) to request redemption of additional Redemption Shares (the "Redemption Option") or (ii) to withdraw the balance of the Redemption Shares from the Redemption Request. The holders of a majority of the outstanding Preferred Shares may exercise the Redemption Option by delivering written notice to the Corporation within 20 days after receipt of the Availability Notice. In the event such holders elect the Redemption Option, the Corporation shall use the additional available funds to immediately redeem the maximum possible number of Preferred Shares subject to such Redemption Request pro rata among the holders of such Preferred Shares based upon the aggregate Liquidation Value of such Preferred Shares held by each such holder, plus all accrued and unpaid dividends thereon. In the event, however, such holders do not exercise the Redemption Option, the balance of the Redemption Shares subject to such Redemption Request shall be deemed withdrawn from such Redemption Request, and thereafter the Corporation shall be permitted at the discretion of the Company's Board of Directors to use such additional funds for other purposes.

(iii) Notice of Redemption. Except as otherwise provided herein, the Corporation shall mail written notice of each redemption of Preferred Stock to each record holder thereof not more than 60 nor less than 30 days prior to the date on which such redemption is to be made. In case fewer than the total number of Preferred Shares represented by any certificate are redeemed, a new certificate representing the number of unredeemed Preferred

Shares shall be issued to the holder thereof without cost to such holder within five business days after surrender of the certificate representing the redeemed Preferred Shares.

(iv) Determination of the Number of Each Holder's Shares to be Redeemed. Except as otherwise provided herein, the Preferred Shares to be redeemed from the holders thereof in redemptions hereunder shall be allocated among such holders on a pro rata basis in accordance with the aggregate Liquidation Value of such Preferred Shares held by each such holder, plus all accrued and unpaid dividends thereon.

(v) Dividends After Redemption Date. No Preferred Share shall be entitled to any dividends accruing after the date on which the Liquidation Value of such Preferred Share, plus all accrued and unpaid dividends thereon, is paid in full in immediately available funds to the holder of such Preferred Share. On such date, all rights of the holder of such Preferred Share shall cease, and such Preferred Share shall no longer be deemed to be issued and outstanding.

(vi) Redeemed or Otherwise Acquired Shares. Any Preferred Shares which are redeemed or otherwise acquired by the Corporation shall be canceled and retired to authorized but unissued shares and shall not be reissued, sold or transferred.

(vii) Other Redemptions or Acquisitions. The Corporation shall not, nor shall it permit any Subsidiary to, redeem or otherwise acquire any shares of Preferred Stock, except as expressly authorized herein or as otherwise agreed by the holders of a majority of the Preferred Stock then outstanding.

(e) Voting Rights. The holders of the Preferred Stock shall be entitled to notice of all stockholders meetings in accordance with the Corporation's By-Laws, and the holders of the Preferred Stock shall be entitled to vote on all matters submitted to the stockholders for a vote together with the holders of the Class A Common Stock voting together as a single class with each share of Class A Common Stock entitled to one vote per share and each share of Preferred Stock entitled to one vote for each share of Conversion Stock issuable upon conversion of such share of Preferred Stock as of the record date for such vote or, if no record date is specified, as of the date of such vote.

(f) Conversion.

(i) Conversion Procedure.

(A) At any time and from time to time, any holder of Preferred Stock may convert all or any portion of such holder's Preferred Shares (including any fraction of a Preferred Share) held by such holder into a number of shares of Conversion Stock computed by multiplying the number of Shares to be converted by the Liquidation Value and dividing the result by the Conversion Price then in effect.

(B) Except as otherwise provided herein, each conversion of Preferred Stock shall be deemed to have been effected as of the close of business on the date on which the certificate or certificates representing the Preferred Stock to be converted have been surrendered for conversion at the principal office of the Corporation. At the time any such conversion has been effected, the rights of the holder of the shares converted as a holder of Preferred Stock shall

cease and the Person or Persons in whose name or names any certificate or certificates for shares of Conversion Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Conversion Stock represented thereby.

(C) The conversion rights of any Preferred Share subject to redemption hereunder shall terminate on the Redemption Date for such Preferred Share unless the Corporation has failed to pay to the holder thereof in full in immediately available funds the Liquidation Value of such Preferred Share, plus all accrued and unpaid dividends thereon.

(D) Notwithstanding any other provision hereof, if a conversion of Preferred Stock is to be made in connection with a Public Offering, a Change in Ownership, a Fundamental Change or similar transaction affecting the Corporation, the conversion of any shares of Preferred Stock may, at the election of the holder thereof, be conditioned upon the consummation of such transaction, in which case such conversion (i) shall not become effective unless such transaction is consummated, and (ii) shall be deemed to be effective immediately prior to the consummation of such transaction.

(E) As soon as possible after a conversion has been effected, but in any event within five business days, the Corporation shall deliver to the converting holder:

(1) a certificate or certificates representing the number of shares of Conversion Stock issuable by reason of such conversion in such name or names and such denomination or denominations as the converting holder has specified;

(2) a certificate representing any shares of Preferred Stock which were represented by the certificate or certificates delivered to the Corporation in connection with such conversion but which were not converted; and

(3) payment of the amount payable under Section 2(f)(i)(K) below with respect to such conversion.

(F) The issuance of certificates for shares of Conversion Stock upon conversion of Preferred Stock shall be made without charge to the holders of such Preferred Stock for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Conversion Stock. Upon conversion of each share of Preferred Stock, the Corporation shall take all such actions as are necessary in order to insure that the Conversion Stock issuable with respect to such conversion shall be validly issued, fully paid and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof.

(G) The Corporation shall not close its books against the transfer of Preferred Stock or of Conversion Stock issued or issuable upon conversion of Preferred Stock in any manner which interferes with the timely conversion of Preferred Stock. The Corporation shall assist and cooperate, in all reasonable respects, with any holder of Preferred Shares required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of Preferred Shares hereunder (including, without limitation, making any filings required to be made by the Corporation).

(H) The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Conversion Stock, solely for the purpose of issuance upon the conversion of the Preferred Stock, such number of shares of Conversion Stock issuable upon the conversion of all outstanding Preferred Stock. All shares of Conversion Stock which are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges. The Corporation shall take all such actions as may be necessary to assure that all such shares of Conversion Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange upon which shares of Conversion Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance). The Corporation shall not take any action which would cause the number of authorized but unissued shares of Conversion Stock to be less than the number of such shares required to be reserved hereunder for issuance upon conversion of the Preferred Stock.

(I) Upon the consummation of a Qualifying Initial Public Offering, each outstanding Preferred Share shall automatically convert at the Conversion Price in effect at the time of such conversion. Any such mandatory conversion shall only be effected at the time of and subject to the closing of the sale of such shares pursuant to such Qualifying Initial Public Offering and upon written notice of such mandatory conversion delivered to all holders of Preferred Stock at least seven days prior to such closing.

(J) The holders of a majority of the issued and outstanding Preferred Stock may at any time, but only with Oaktree's prior written consent, elect to convert all of the outstanding Preferred Stock at the Conversion Price in effect at the time of such conversion. The Corporation shall provide written notice of such mandatory conversion to all holders of Preferred Stock at least seven days prior to such conversion.

(K) If any fractional interest in a share of Conversion Stock would, except for the provisions of this subparagraph, be delivered upon any conversion of the Preferred Stock, the Corporation, in lieu of delivering the fractional share therefore, shall pay an amount to the holder thereof equal to the Market Price of such fractional interest as of the date of conversion.

(ii) Conversion Price.

(A) The initial Conversion Price shall be $28.16197. In order to prevent dilution of the conversion rights granted under this Section 2(f), the Conversion Price shall be subject to adjustment from time to time pursuant to this Section (2)(f)(ii).

(B) If and whenever the Corporation issues or sells, or in accordance with Section (2)(f)(iii) is deemed to have issued or sold, any shares of its Common Stock for a consideration per share less than the Conversion Price in effect immediately prior to the time of such issuance or sale, then immediately upon such issuance or sale or deemed issuance or sale the Conversion Price shall be reduced to the Conversion Price determined by dividing (a) the sum of (1) the product derived by multiplying the Conversion Price in effect immediately prior to such issuance or sale by the number of shares of Common Stock Deemed Outstanding immediately prior to such issue or sale, plus (2) the consideration, if any, received by the

Corporation upon such issuance or sale, by (b) the number of shares of Common Stock Deemed Outstanding immediately after such issuance or sale.

(C) Notwithstanding the foregoing, there shall be no adjustment in the Conversion Price as a result of any issuance or sale (or deemed issuance or sale) of up to an aggregate of 1,159,957 shares of Class B Common Stock to employees, consultants, and advisors of the Corporation and its Subsidiaries pursuant to stock option plans and stock ownership plans approved by the Corporation's Board of Directors (as such number of shares is proportionately adjusted for subsequent stock splits, combinations and dividends affecting the Class B Common Stock).

(iii) Effect of Conversion Price on Certain Events. For purposes of determining the adjusted Conversion Price under Section 2(f)(ii) above, the following shall be applicable:

(A) Issuance of Rights or Options. If the Corporation in any manner grants or sells any Options and the price per share for which Common Stock is issuable upon the exercise of such Options, or upon the conversion or exchange of any Convertible Securities issuable upon the exercise of such Options, is less than the Conversion Price in effect immediately prior to the time of the granting or sale of such Options, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of such Convertible Security issuable upon the exercise of such Options shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the granting or sale of such Options for such price per share. For purposes of this paragraph, the "price per share for which Common Stock is issuable" shall be determined by dividing (A) the total amount, if any, received or receivable by the Corporation as consideration for the granting or sale of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon the exercise of all such Options, plus in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the issuance or sale of such Convertible Securities and the conversion or exchange thereof, by (B) the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options. No further adjustment of the Conversion Price shall be made when Convertible Securities are actually issued upon the exercise of such Options or when Common Stock is actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities.

(B) Issuance of Convertible Securities. If the Corporation in any manner issues or sells any Convertible Securities and the price per share for which Common Stock is issuable upon the conversion or exchange thereof is less than the Conversion Price in effect immediately prior to the time of such issue or sale, then the maximum number of shares of Common Stock issuable upon conversion or exchange of such Convertible Securities shall be deemed to be outstanding and to have been issued and sold by the Corporation at the time of the issuance or sale of such Convertible Securities for such price per share. For the purposes of this paragraph, the "price per share for which Common Stock is issuable" shall be determined by dividing (A) the total amount received or receivable by the Corporation as consideration for the

issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof, by (B) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities. No further adjustment of the Conversion Price shall be made when Common Stock is actually issued upon the conversion or exchange of such Convertible Securities, and if any such issue or sale of such Convertible Securities is made upon exercise of any Options for which adjustments of the Conversion Price had been or are to be made pursuant to other provisions of this Section 2(f), no further adjustment of the Conversion Price shall be made by reason of such issue or sale.

(C) Change in Option Price or Conversion Rate. If the purchase price provided for in any Option, the additional consideration, if any, payable upon the issue, conversion or exchange of any Convertible Securities or the rate at which any Convertible Security is convertible into or exchangeable for Common Stock changes at any time, the Conversion Price in effect at the time of such change shall be adjusted immediately to the Conversion Price which would have been in effect at such time had such Option or Convertible Security originally provided for such changed purchase price, additional consideration or conversion rate, as the case may be, at the time initially granted, issued or sold. For purposes of Section 2(f)(iii), if the terms of any Option or Convertible Security which was outstanding as of the date of issuance of the Preferred Stock are changed in the manner described in the immediately preceding sentence, then such Option or Convertible Security and the Common Stock deemed issuable upon exercise, conversion or exchange thereof shall be deemed to have been issued as of the date of such change; provided that no such change shall at any time cause the Conversion Price hereunder to be increased.

(D) Treatment of Expired Options and Unexercised Convertible Securities. Upon the expiration of any Option or the termination of any right to convert or exchange any Convertible Security without the exercise of any such Option or right, the Conversion Price then in effect hereunder shall be adjusted immediately to the Conversion Price which would have been in effect at the time of such expiration or termination had such Option or Convertible Security, to the extent outstanding immediately prior to such expiration or termination, never been issued. For purposes of Section 2(f)(iii), the expiration or termination of any Option or Convertible Security which was outstanding as of the date of issuance of the Preferred Stock shall not cause the Conversion Price hereunder to be adjusted unless, and only to the extent that, a change in the terms of such Option or Convertible Security caused it to be deemed pursuant to Section 2(f)(iii)(C) immediately above, to have been issued after the date of issuance of the Preferred Stock.

(E) Calculation of Consideration Received. If any Common Stock, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Corporation therefor (net of discounts, commissions and related expenses). If any Common Stock, Option or Convertible Security is issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation shall be the fair value of such consideration, except where such consideration consists of securities, in which case the amount of consideration received by the Corporation shall be the Market Price thereof as of the date of receipt. If any Common Stock, Option or Convertible Security is issued to the owners of the

non-surviving entity in connection with any merger in which the Corporation is the surviving corporation, the amount of consideration therefor shall be deemed to be the fair value of the portion of the net assets and business of the non-surviving entity that is attributable to such Common Stock, Option or Convertible Security, as the case may be. The fair value of any consideration or net assets other than cash and securities (and, if applicable, the portion thereof attributable to any such stock or securities) shall be determined jointly by the Corporation and the holders of a majority of the outstanding Preferred Shares. If such parties are unable to reach agreement within a reasonable period of time, the fair value of such consideration or portion thereof shall be determined by an independent appraiser experienced in valuing such type of consideration jointly selected by the Corporation and the holders of a majority of the outstanding Preferred Stock. The determination of such appraiser shall be final and binding upon the parties, and the fees and expenses of such appraiser shall be borne by the Corporation.

(F) Integrated Transactions. In case any Option is issued in connection with the issue or sale of other securities of the Corporation, together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Option shall be deemed to have been issued for a consideration of $.01.

(G) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation or any Subsidiary, and the disposition of any shares so owned or held shall be considered an issue or sale of Common Stock.

(H) Record Date. If the Corporation takes a record of the holders of Common Stock for the purpose of entitling them (a) to receive a dividend or other distribution payable in Common Stock, Options or in Convertible Securities or (b) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issuance or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or upon the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(iv) Subdivision or Combination of Common Stock. If the Corporation at any time subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Class A Common Stock into a greater number of shares, the Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and if the Corporation at any time combines (by reverse stock split or otherwise) one or more classes of its outstanding shares of Class A Common Stock into a smaller number of shares, the Conversion Price in effect immediately prior to such combination shall be proportionately increased.

(v) Reorganization, Reclassification, Consolidation, Merger or Sale. Any recapitalization, reorganization, reclassification, consolidation, merger, sale of all or substantially all of the Corporation's assets or other transaction, in each case which is effected in such a manner that the holders of Class A Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Class A Common Stock, is referred to herein as an "Organic Change." Prior to the consummation of any

Organic Change, the Corporation shall make appropriate provisions (in form and substance reasonably satisfactory to the holders of a majority of the Preferred Shares then outstanding) to insure that the Preferred Stock shall not be cancelled or retired as a result of such Organic Change and each of the holders of the Preferred Stock shall thereafter have the right to acquire and receive, in lieu of or in addition to (as the case may be) the shares of Conversion Stock immediately theretofore acquirable and receivable upon the conversion of such holder's Preferred Stock, such shares of stock, securities or assets as such holder would have received in connection with such Organic Change if such holder had converted such holder's Preferred Stock immediately prior to such Organic Change (plus all accrued and unpaid dividends on the Preferred Stock held by such holder immediately prior to such Organic Change). In each such case, the Corporation shall also make appropriate provisions (in form and substance satisfactory to the holders of a majority of the Preferred Shares then outstanding) to insure that the provisions of Sections 2(f), 2(g), and 2(h) hereof shall thereafter be applicable to the Preferred Stock (including, in the case of any such consolidation, merger or sale in which the successor entity or purchasing entity is other than the Corporation, an immediate adjustment of the Conversion Price to the value for the Common Stock reflected by the terms of such consolidation, merger or sale, and a corresponding immediate adjustment in the number of shares of Conversion Stock acquirable and receivable upon conversion of Preferred Stock, if the value so reflected is less than the Conversion Price in effect immediately prior to such consolidation, merger or sale). The Corporation shall not effect any such consolidation, merger or sale, unless prior to the consummation thereof, the successor entity (if other than the Corporation) resulting from consolidation or merger or the entity purchasing such assets assumes by written instrument (in form and substance satisfactory to the holders of a majority of the Preferred Shares then outstanding), the obligation to deliver to each such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to acquire.

(vi) Certain Events. If any event occurs of the type contemplated by the provisions of this Section 2(f) but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Corporation's Board of Directors shall make an appropriate adjustment in the Conversion Price so as to protect the rights of the holders of Preferred Stock; provided that no such adjustment shall increase the Conversion Price as otherwise determined pursuant to this Section 2(f) or decrease the number of shares of Conversion Stock issuable upon the conversion of any Preferred Share.

(vii) Notices.

(A) As soon as practicable after any adjustment of the Conversion Price, the Corporation shall give written notice thereof to all holders of Preferred Stock, setting forth in reasonable detail and certifying the calculation of such adjustment.

(B) The Corporation shall give written notice to all holders of Preferred Stock at least 20 days prior to the date on which the Corporation closes its books or takes a record (a) with respect to any dividend or distribution upon Class A Common Stock, (b) with respect to any pro rata subscription offer to holders of Class A Common Stock or (c) for determining rights to vote with respect to any Organic Change, dissolution or liquidation.

(C) The Corporation shall also give written notice to the holders of Preferred Stock at least 20 days prior to the date on which any Organic Change shall take place.

(g) Liquidating Dividends. Subject to Section 2(c) above, if the Corporation declares or pays a dividend upon the Common Stock payable otherwise than in cash out of earnings or earned surplus (determined in accordance with United States generally accepted accounting principles, consistently applied) except for a stock dividend payable in shares of Common Stock (a "Liquidating Dividend"), then the Corporation shall pay to the holders of Preferred Stock at the time of payment thereof the Liquidating Dividends which would have been paid in respect of shares of Conversion Stock had such Preferred Stock been converted immediately prior to the date on which a record is taken for such Liquidating Dividend, or, if no record is taken, the date as of which the record holders of such class of Common Stock entitled to such dividends are to be determined.

(h) Purchase Rights. Subject to Section 2(c) above, if at any time the Corporation grants, issues or sells any Options, Convertible Securities or rights to purchase stock, warrants, securities or other property pro rata to the record holders of Common Stock (the "Purchase Rights"), then each holder of Preferred Stock shall be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which such holder could have acquired if such holder had held the number of shares of Conversion Stock acquirable upon conversion of such holder's Preferred Stock immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

(i) Registration of Transfer. The Corporation shall keep at its principal office a register for the registration of Preferred Stock. Upon the surrender of any certificate representing Preferred Stock at such place, the Corporation shall, at the request of the record holder of such certificate, execute and deliver (at the Corporation's expense) a new certificate or certificates in exchange therefor representing in the aggregate the number of Shares represented by the surrendered certificate. Each such new certificate shall be registered in such name and shall represent such number of Preferred Shares as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate, and dividends shall accrue on the Preferred Stock represented by such new certificate from the date to which dividends have been fully paid on such Preferred Stock represented by the surrendered certificate.

(j) Replacement. Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing Preferred Shares, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution or other institutional investor its own agreement shall be satisfactory), or, in the case of any such mutilation upon surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of Preferred Shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate, and dividends shall accrue on the Preferred

Stock represented by such new certificate from the date to which dividends have been fully paid on such lost, stolen, destroyed or mutilated certificate.

(k) Definitions.

"Catch-Up Amount" in respect of any share of Preferred Stock means the amount determined by dividing (i) the aggregate amount which the holder thereof has received or is entitled to receive in respect of such share of Preferred Stock pursuant to Section 2(b)(i)(A) or Section 2(b)(i)(B) above, by (ii) a fraction, the numerator of which is the Liquidation Value of such share of Preferred Stock, and the denominator of which is the Conversion Price for such share of Preferred Stock in effect upon commencement of such liquidation, dissolution or winding up of the Corporation.

"Change in Ownership" means any sale, transfer or issuance or series of sales, transfers and/or issuances of shares of the Capital Stock by the Corporation or any holders thereof which results in any Person or group of Persons (as the term "group" is used under the Securities Exchange Act of 1934, as amended), other than the holders of Common Stock and Preferred Stock as of the original issue date of the Preferred Stock, owning capital stock of the Corporation possessing the voting power (under ordinary circumstances and without regard to cumulative voting rights) to elect a majority of the Corporation's Board of Directors.

"Common Stock" means the Corporation's Common Stock and any capital stock of any class of the Corporation hereafter authorized which is not limited to a fixed sum or percentage of par or stated value in respect to the rights of the holders thereof to participate in dividends or in the distribution of assets upon any liquidation, dissolution or winding up of the Corporation.

"Common Stock Deemed Outstanding" means, at any given time, the number of shares of Common Stock actually outstanding at such time, plus the number of shares of Common Stock deemed to be outstanding pursuant to Sections 2(f)(iii)(A) and (B) hereof whether or not the Options or Convertible Securities are actually exercisable at such time, but excluding any shares of Class A Common Stock issuable upon conversion of the Preferred Stock.

"Conversion Stock" means shares of Class A Common Stock; provided that if there is a change such that the securities issuable upon conversion of the Preferred Stock are issued by an entity other than the Corporation or there is a change in the type or class of securities so issuable, then the term "Conversion Stock" shall mean one share of the security issuable upon conversion of the Preferred Stock if such security is issuable in shares, or shall mean the smallest unit in which such security is issuable if such security is not issuable in shares.

"Convertible Securities" means any stock or securities directly or indirectly convertible into or exchangeable for Common Stock.

"Fundamental Change" means (a) any sale or transfer of more than 50% of the assets of the Corporation and its Subsidiaries on a consolidated basis (measured either by book value in accordance with generally accepted accounting principles consistently applied or by fair market value determined in the reasonable good faith judgment of the Corporation's Board of

Directors) in any transaction or series of transactions (other than sales in the ordinary course of business) and (b) any merger or consolidation to which the Corporation is a party, except for (x) a merger which is effected solely to change the state of incorporation of the Corporation or (y) a merger in which the Corporation is the surviving corporation, the terms of the Preferred Stock are not changed or altered in any respect, the Preferred Stock is not exchanged for cash, securities or other property, and after giving effect to such merger, the holders of the Capital Stock immediately prior to the merger as of the original issue date shall continue to own the outstanding Capital Stock possessing the voting power (under ordinary circumstances) to elect a majority of the Corporation's Board of Directors.

The "Implied Valuation" of the Corporation at any time means the product of (a) the gross price per share payable by the public in a Public Offering consummated at such time and (b) the sum of (i) the number of shares of Common Stock issued and outstanding immediately following the closing of all of the transactions contemplated by the Recapitalization Agreement and (ii) the number of shares of Common Stock issuable upon conversion of all shares of Preferred Stock issued and outstanding immediately following the closing of all of the transactions contemplated by the Recapitalization Agreement (as such number of shares in (i) and (ii) above has been proportionately adjusted in connection with any stock split, reverse stock split or stock dividend affecting the Common Stock).

"Investor Rights Agreement" means the Investor Rights Agreement, dated on or about February 11, 2004, by and among the Corporation and certain of its stockholders.

"Junior Securities" means any capital stock or other equity securities of the Corporation, except for the Preferred Stock.

"Liquidation Value" of any Preferred Share as of any particular date shall be equal to $1,000.

"Market Price" of any security means the average of the closing prices of such security's sales on all securities exchanges on which such security may at the time be listed, or, if there has been no sales on any such exchange on any day, the average of the highest bid and lowest asked prices on all such exchanges at the end of such day, or, if on any day such security is not so listed, the average of the representative bid and asked prices quoted in the NASDAQ System as of 4:00 P.M., New York time, or, if on any day such security is not quoted in the NASDAQ System, the average of the highest bid and lowest asked prices on such day in the domestic over-the-counter market as reported by the National Quotation Bureau, Incorporated, or any similar successor organization, in each such case averaged over a period of 21 days consisting of the day as of which "Market Price" is being determined and the 20 consecutive business days prior to such day. If at any time such security is not listed on any securities exchange or quoted in the NASDAQ System or the over-the-counter market, the "Market Price" shall be the fair value thereof determined in good faith jointly by the Corporation and the holders of a majority of the Preferred Stock. If such parties are unable to reach agreement within a reasonable period of time, such fair value shall be determined by an independent appraiser experienced in valuing securities jointly selected by the Corporation and the holders of a majority of the Preferred Stock. The determination of such appraiser shall be final and binding upon the parties, and the Corporation shall pay the fees and expenses of such appraiser.

"Oaktree" means each affiliate of Oaktree Capital Management, LLC that holds Preferred Stock.

"Oaktree Directors" means persons designated to serve on the Corporation's Board of Directors by holders of Oaktree Shares pursuant to the terms of the Investor Rights Agreement.

"Oaktree Shares" has the meaning given to such term in the Investor Rights Agreement.

"Options" means any rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities.

"Person" means an individual, a partnership, a corporation, a limited liability company, a limited liability, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

"Public Offering" means any offering by the Corporation of its capital stock or equity securities to the public pursuant to an effective registration statement under the Securities Act of 1933, as then in effect, or any comparable statement under any similar federal statute then in force.

"Qualifying Initial Public Offering" means an initial Public Offering resulting in cash proceeds to the Corporation (net of underwriting discounts, fees and expenses) of at least $75,000,000; provided that, in the event that, immediately prior to the consummation of such Public Offering, the majority of the persons serving on the Corporation's Board of Directors are not Oaktree Directors, then such Public Offering shall not be a Qualifying Initial Public Offering if (a) the Implied Valuation of the Corporation is less than $588,000,000 in the event such offering is consummated on or before February 11, 2006 or (b) the Implied Valuation of the Corporation is less than $882,000,000 in the event such offering is consummated after February 11, 2006.

"Recapitalization Agreement" means the Recapitalization Agreement, dated on or about February 11, 2004, by and among the Corporation, OCM Spirit Holdings, LLC, and certain of the Corporation's stockholders.

"Redemption Date" as to any Preferred Share means the applicable date specified in the notice of any redemption; provided that no such date shall be a Redemption Date unless the Liquidation Value of such Preferred Share, plus all accrued and unpaid dividends thereon, is actually paid in full on such date, and if not so paid in full, the Redemption Date shall be the date on which such amount is fully paid.

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other

Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control the managing general partner of such limited liability company, partnership, association or other business entity.

(l) Amendment and Waiver. No amendment, modification or waiver shall be binding or effective with respect to any provision of subsections (a) through (k) of this Section 2 without the prior written consent of the holders of a majority of the Preferred Shares outstanding at the time such action is taken; provided that no change in the terms hereof may be accomplished by merger or consolidation of the Corporation with another corporation or entity unless the Corporation has obtained the prior written consent of the holders of a majority of the Preferred Shares then outstanding.

(m) Notices. Except as otherwise expressly provided hereunder, all notices referred to herein shall be in writing and shall be delivered by registered or certified mail, return receipt requested and postage prepaid, or by reputable overnight courier service, charges prepaid, and shall be deemed to have been given when so mailed or sent (i) to the Corporation, at its principal executive offices and (ii) to any stockholder, at such holder's address as it appears in the stock records of the Corporation (unless otherwise indicated by any such holder).

3. Common Stock.

(a) Conversion of Existing Common Stock. Immediately upon the filing of this Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware, each outstanding share of the Corporation's common stock, par value $0.01 per share, shall without further action by the Corporation or the holder thereof, be reclassified, changed and converted into one share of Class A Common.

(b) Voting Rights. Except as otherwise provided in this Section 3 or as otherwise required by applicable law, the holders of Class A Common shall be entitled to one vote per share on all matters to be voted on by the stockholders of the Corporation, and the holders of Class B Common shall have no right to vote on any matters to be voted on by the stockholders of the Corporation; provided that the holders of Class B Common shall have the right to vote as a separate class on any merger or consolidation of the Corporation with or into another entity or entities, or any recapitalization or reorganization, in which shares of Class B Common would receive or be exchanged for consideration different on a per share basis from consideration received with respect to or in exchange for the shares of Class A Common or would otherwise be treated differently from shares of Class A Common in connection with such transaction, except that shares of Class B Common may, without such a separate class vote, receive or be exchanged for non-voting securities (except as otherwise required by law) which are otherwise identical on a per share basis in amount and form to the voting securities received with respect to or

exchanged for the Class A Common so long as all other consideration is equal on a per share basis.

(c) Dividends. As and when dividends are declared or paid with respect to shares of Common Stock, whether in cash, property or securities of the Corporation, the holders of Class A Common and the holders of Class B Common shall be entitled to receive such dividends *pro rata* at the same rate per share of each class of Common Stock; provided that (i) if dividends are declared or paid in shares of Common Stock, the dividends payable to holders of Class A Common shall be payable in shares of Class A Common and the dividends payable to the holders of Class B Common shall be payable in shares of Class B Common and (ii) if the dividends consist of other voting securities of the Corporation, the Corporation shall make available to each holder of Class B Common, at such holder's request, dividends consisting of non-voting securities (except as otherwise required by law) of the Corporation which are otherwise identical to the voting securities. The right of the holders of Common Stock to receive dividends is subject to the provisions of the Preferred Stock.

(d) Liquidation. Upon any liquidation, dissolution, and/or winding up of the Corporation (whether voluntary or involuntary and including any transaction deemed to be a liquidation, dissolution and winding up of the Corporation pursuant to Section 2(b)(ii) above), after giving effect to each distribution to each holder of Preferred Stock of all amounts to which such holder is entitled pursuant to Sections 2(b)(i)(A) and 2(b)(i)(B) in respect of all Preferred Shares held by such holder, each holder of Common Stock shall be entitled to receive in cash that amount which would be distributed to such holder if all of the Corporation's assets which are then available or which thereafter become available for distribution to holders of Corporation capital stock shall be distributed to the holders of Common Stock and Preferred Stock, pro rata based on holdings of Common Distribution Shares determined for each such distribution. Each share of Common Stock outstanding upon commencement of the liquidation, dissolution or winding up of the Corporation shall be deemed to be one Common Distribution Share for purposes of all distributions pursuant to this Section 3(d) or Section 2(b)(i)(C) of this Article Four. Also, each share of Preferred Stock shall be deemed to represent (x) zero Common Distribution Shares in respect of each distribution pursuant to this Section 3(d) or Section 2(b)(i)(C) of this Article Four until the aggregate amount so distributed in respect of shares of Common Stock constituting Common Distribution Shares, divided by the number of shares of Common Stock constituting Common Distribution Shares, shall be equal to the Catch-Up Amount for such share of Preferred Stock, and (y) with respect to all amounts distributed thereafter pursuant to this Section 3(d) or Section 2(b)(i)(C) of this Article Four, that number of Common Distribution Shares equal to the Liquidation Value of such share of Preferred Stock divided by the Conversion Price in effect upon commencement of such liquidation, dissolution or winding up of the Corporation in respect of all other distributions pursuant to this Section 3(d) or Section 2(b)(i)(C) of this Article Four.

(e) Registration of Transfer. The Corporation shall keep at its principal office (or such other place as the Corporation reasonably designates) a register for the registration of shares of Common Stock. Upon the surrender of any certificate representing shares of any class of Common Stock at such place, the Corporation shall, at the request of the record holder of such certificate, execute and deliver (at the Corporation's expense) a new certificate or certificates in exchange therefor representing in the aggregate the number of shares of such class represented

by the surrendered certificate and the Corporation shall forthwith cancel such surrendered certificate. Each such new certificate shall be registered in such name and shall represent such number of shares of such class as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate. The issuance of new certificates shall be made without charge to the holders of the surrendered certificates for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such issuance.

(f) Replacement. Upon receipt of evidence reasonably satisfactory to the Corporation (provided, that an affidavit of the registered holder will be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing one or more shares of any class of Common Stock, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution or other institutional investor its own agreement will be satisfactory), or, in the case of any such mutilation upon surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate.

(g) Amendment and Waiver. No amendment, modification or waiver shall be binding or effective with respect to any provision of subsection (a) through (h) of this Section 3 without the prior written consent of the Corporation and the holders of at least 50% of the Corporation's then outstanding Capital Stock (i.e., the Common Stock and the Preferred Stock voting as a single class on an as converted basis); provided that in the event that such amendment or waiver by its terms treats any holder or group of holders of Capital Stock adversely relative to other holders of Capital Stock, then such amendment or waiver will require the consent of the holders of a majority of the Capital Stock held by such holder or group of holders of Capital Stock so adversely treated.

(h) Notices. Except as otherwise expressly provided hereunder, all notices referred to herein shall be in writing and shall be delivered by registered or certified mail, return receipt requested and postage prepaid, or by reputable overnight courier service, charges prepaid, and shall be deemed to have been given when so mailed or sent (i) to the Corporation, at its principal executive offices and (ii) to any stockholder, at such holder's address as it appears in the stock records of the Corporation (unless otherwise indicated by any such holder).

ARTICLE FIVE
EXISTENCE

The Corporation is to have perpetual existence.

ARTICLE SIX
BY-LAWS

In furtherance and not in limitation of the powers conferred by statute, the board of directors of the Corporation is expressly authorized to make, alter or repeal the By-Laws of the Corporation.

ARTICLE SEVEN
MEETINGS OF STOCKHOLDERS

Meetings of stockholders may be held within or without the State of Delaware, as the By-Laws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the board of directors or in the By-Laws of the Corporation. Election of directors need not be by written ballot unless the By-Laws of the Corporation so provide.

ARTICLE EIGHT
LIMITATION OF LIABILITY

To the fullest extent permitted by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended, a director of this Corporation shall not be liable to the Corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director. Any repeal or modification of this ARTICLE EIGHT shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

ARTICLE NINE
BUSINESS COMBINATIONS

The Corporation expressly elects not to be governed by Section 203 of the General Corporation Law of the State of Delaware.

ARTICLE TEN
AMENDMENTS

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation in the manner now or hereafter prescribed herein, by the unanimous written consent of the board of directors of the Corporation and by the laws of the State of Delaware, and all rights conferred upon stockholders herein are granted subject to this reservation.

OCM SPIRIT HOLDINGS, LLC

A Delaware Limited Liability Company

LIMITED LIABILITY COMPANY AGREEMENT

Dated as of February 20, 2004

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH INTERESTS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM.

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS LIMITED LIABILITY COMPANY AGREEMENT ARE SUBJECT TO CONDITIONS AND RESTRICTIONS ON TRANSFER SET FORTH HEREIN, AND THE LLC RESERVES THE RIGHT TO REFUSE THE TRANSFER OF SUCH INTERESTS UNLESS AND UNTIL SUCH CONDITIONS HAVE BEEN FULFILLED WITH RESPECT TO THE REQUESTED TRANSFER.

LIMITED LIABILITY COMPANY AGREEMENT
OF
OCM SPIRIT HOLDINGS, LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT, dated as of February 20, 2004 (this "Agreement"), is adopted, executed and agreed to by the Initial Members and the Manager. Certain terms used herein are defined in Section 1.7.

WHEREAS, pursuant to the terms of that certain Recapitalization Agreement (the "Recap Agreement"), dated as of the date hereof, by and among the LLC (as defined below), Spirit Airlines, Inc., a Delaware corporation ("Spirit"), and the other persons party thereto, the LLC has agreed to acquire 139,535 shares of Spirit's Class A Convertible Preferred Stock for an aggregate purchase price of $139,535,172.49.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I

GENERAL PROVISIONS; CAPITAL CONTRIBUTIONS; DEFINITIONS

Section 1.1 Formation. The formation of OCM Spirit Holdings, LLC (the "LLC") pursuant to and in accordance with the Delaware Limited Liability Company Act, 6 Del. C. §18-101, et seq., as amended from time to time (the "Act"), occurred on January 20, 2004. An authorized person, within the meaning of the Act, has executed, delivered and filed the certificate of formation of the LLC (the "Certificate"). Upon (i) the Initial Members' and the Manager's execution of this Agreement or a counterpart hereof and (ii) the Initial Members' making of the capital contributions required by Section 1.5, such Initial Members shall be admitted to the LLC as its initial members.

Section 1.2 Name. The name of the LLC will be "OCM Spirit Holdings, LLC" or such other name or names as the Manager may from time to time designate.

Section 1.3 Purpose. The LLC's purpose shall be to carry on any activities which may lawfully be carried on by a limited liability company organized pursuant to the Act.

Section 1.4 No UBTI. Notwithstanding anything contained herein to the contrary, the LLC shall not, and the Manager shall cause the LLC not to, knowingly enter into any transaction that would cause a Tax Exempt Person to recognize UBTI as a result of its direct or indirect investment in any Member. The parties hereto hereby agree that, notwithstanding the generality of the foregoing and notwithstanding any possible future changes in the provisions of the Code, the acquisition of equity securities by the LLC pursuant to the terms of the Recap Agreement shall not ever be deemed a violation by the LLC of the provisions of this Section 1.4.

Section 1.5 Registered Office; Registered Agent; Place of Business. The registered office of the LLC required by the Act to be maintained in the State of Delaware shall

be the office of the initial registered agent named in the Certificate or such other office (which need not be a place of business of the LLC) as the Manager may designate from time to time in the manner provided by law. The registered agent of the LLC in the State of Delaware shall be the initial registered agent named in the Certificate or such other person or persons as the Manager may designate from time to time in the manner provided by law. The LLC will maintain an office and principal place of business at such place or places inside or outside the State of Delaware as the Manager may designate from time to time.

Section 1.6 Capital Contributions.

(a) The Initial Members shall, promptly following the execution of this Agreement, contribute to the capital of the LLC the amounts set forth on Schedule I. The Manager shall amend Schedule I from time to time to reflect any future capital contribution made by any Participant. Persons hereafter admitted as Members of the LLC shall make such contributions of cash (or promissory obligations), property or services to the LLC as shall be determined by the Manager and the Member making the contribution in their sole discretion at the time of each such admission.

(b) No Participant shall have any responsibility to restore any negative balance in his, her or its Capital Account or to contribute to or in respect of liabilities or obligations of the LLC, whether arising in tort, contract or otherwise, or return distributions made by the LLC except as required by the Act or other applicable law. The failure of the LLC to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Participants for liabilities of the LLC.

(c) No interest shall be paid by the LLC on capital contributions or on balances in Capital Accounts.

(d) A Participant shall not be entitled to withdraw any part of its Capital Account or to receive any distributions from the LLC except as provided in Articles III and V; nor shall a Participant be entitled to make any capital contribution to the LLC other than as expressly provided herein. Any Participant may, with the approval of the Manager, make loans to the LLC, and any loan by a Participant to the LLC shall not be considered to be a capital contribution for any purpose and shall not result in an increase in the amount of the Capital Account of such Participant.

Section 1.7 Representations and Warranties of the Initial Members. As a material inducement to the LLC to enter into this Agreement, each of the Initial Members represents and warrants for itself (severally and not jointly) that:

(a) the Percentage Interest to be acquired by such Initial Member pursuant to this Agreement shall be acquired for such Initial Member's own account and not with a view to, or intention of, distribution thereof in violation of the Securities Act or any applicable state securities laws, and such Percentage Interest will not subsequently be

disposed of by such Initial Member in contravention of the Securities Act or any applicable state securities laws;

(b) such Initial Member is an "accredited investor" as such term is defined in Rule 501(a) promulgated under the Securities Act, is sophisticated in financial matters and is able to evaluate the risks and benefits of the investment in its Percentage Interest;

(c) such Initial Member is able to bear the risk of its investment in its Percentage Interest for an indefinite period of time and is aware that transfer of its Percentage Interest may not be possible because (i) such transfer is subject to contractual restrictions on transfer set forth herein and (ii) its Percentage Interest has not been registered under the Securities Act or any applicable state securities laws and, therefore, cannot be sold unless subsequently registered under the Securities Act and such applicable state securities laws or an exemption from such registration is available;

(d) such Initial Member has had an opportunity to ask questions and receive responses concerning the terms and conditions of the offering and sale of its Percentage Interest hereunder and has had full access to such other information as it has requested;

(e) this Agreement constitutes the legal, valid and binding obligations of such Initial Member, enforceable against such Initial Member in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and limitations on the availability of equitable remedies, and the execution, delivery and performance of this Agreement by such Initial Member does not and shall not conflict with, violate or cause a breach of, any agreement, contract or instrument to which such Initial Member is a party or by which such Initial Member is bound or any judgment, order or decree to which such Initial Member is subject; and

Section 1.8 Definitions. For purposes of this Agreement:

"Additional Percentage Interests" means any equity securities or other equity interests of the LLC, other than securities or interests issued in connection with any split, dividend, combination, recapitalization or similar transaction.

"Affiliate" of a Person means any other Person controlling, controlled by or under common control with such Person and, in the case of any Person that is a partnership, limited liability company or corporation, any partner, member, or shareholder of such Person.

"Assignee" means any person or entity to whom an LLC interest has been transferred in a Transfer described in Article IV, unless and until such person or entity becomes a Member with respect to such LLC interest.

"Book Value" means, with respect to any LLC property, the LLC's adjusted basis for federal income tax purposes, except that the initial Book Value of any property contributed to the LLC shall be the value of such property on the date of such contribution, as agreed by the Manager and the Member contributing the property, and the Book Value of any LLC property shall be adjusted pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(e) (in connection

with a distribution of such property) or (f) (in connection with a revaluation of Capital Accounts).

"Capital Account" has the meaning set forth in Section 2.1.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated thereunder.

"Contribution Agreement" means that certain Contribution and Adjustment Agreement, dated as of the date hereof, by and among the LLC and the other persons party thereto.

"Event of Withdrawal" means the death or dissolution of a Member.

"Independent Third Party" means any Person (other than an Initial Member or its Affiliates) who, immediately prior to the contemplated transaction, does not own in excess of 5% of the LLC's outstanding equity interests (a "5% Owner"), who is not controlling, controlled by or under common control with any such 5% Owner and who is not the spouse or descendent (by birth or adoption) of any such 5% Owner or a trust for the benefit of such 5% Owner and/or such other Persons.

"Initial Members" means the Oaktree Fund, SAHC Holdings LLC, Highfields Capital I LP, Highfields Capital II LP, PAR Investment Partners, L.P., and Randolph Street Partners VI.

"Initial Public Offering" means an initial public offering and sale of common stock by Spirit pursuant to an effective registration statement under the Securities Act.

"Losses" for any period means all items of LLC loss, deduction and expense for such period determined according to Section 2.2.

"Majority in Interest" means the Members holding a majority of Percentage Interests of all Members.

"Manager" means the party identified as such on Schedule I as the manager or its successor as provided for in Section 4.1(d) below. There shall be only one Manager and such Manager must be a U.S. Citizen.

"Managing Member" has the meaning set forth in Section 4.1. Any Managing Member must be a U.S. Citizen.

"Member" means any of the parties identified on Schedule I as a member or admitted as a member after the date of this Agreement in accordance with the terms hereof, in each case for so long as such person continues to be a member hereunder.

The "Oaktree Fund" means POF Spirit Domestic Holdings, LLC, a Delaware limited liability company.

"Other Participant" means any Participant other than the Oaktree Fund or any of its Affilliates.

"Participant" means a Member, a Terminated Member or an Assignee.

"Percentage Interest" means, in respect of each Participant, such Participant's interest in the income, gains, losses, deductions and expenses of the LLC as set forth on Schedule I.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

"Professional Services Agreement" means that certain Professional Services Agreement, dated as of the date hereof, by and between the Manager and Spirit.

"Profits" for any period means all items of LLC income and gain for such period determined according to Section 2.2.

"Qualified Liquidity Event" means one transaction or a series of related transactions in which the LLC transfers all of the equity securities issued by Spirit then held by it in exchange for (a) cash or cash equivalents, (b) Readily Marketable Securities, or (c) any combination of (a) and (b).

"Readily Marketable Securities" means any securities which are listed on any national securities exchange and which may be sold for cash not subject to any restrictions on transfer imposed by contract, applicable securities laws or the applicable rules of any such national securities exchange.

"Sale of the LLC" means the sale of the LLC to an Independent Third Party or group of Independent Third Parties pursuant to which such party or parties acquire (i) more than 50% of the then outstanding equity interests of the LLC, or (ii) all or substantially all of the LLC's assets determined on a consolidated basis.

"Securities Act" means the Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations.

"Tax Exempt Person" means any equityholder of a Member (or, with respect to any equityholder of a Member that is taxed as a partnership for federal income tax purposes (a "flow-through entity"), any equityholder of such flow-through entity) which is exempt from income taxation under Section 501(a) of the Code.

"Terminated Member" means a person who has ceased to be a Member pursuant to Section 4.7.

"UBTI" means unrelated business taxable income as defined in Section 512 and 514 of the Code.

"U.S. Citizen" means a citizen of the United States as that term is defined in 49 U.S.C. § 40102(a)(15).

Section 1.9 Term. The LLC shall continue until dissolved and terminated in accordance with Article V of this Agreement.

Section 1.10 No State-Law Partnership. The Participants intend that the LLC not be a partnership (including, without limitation, a limited partnership) or joint venture and that no Participant be a partner or joint venturer of any other Participant for any purpose (other than federal and state tax purposes, if applicable); and neither this Agreement nor any other document entered into by the LLC or any Participant shall be construed to suggest otherwise. The Participants intend that the LLC shall be treated as a partnership (provided that the Participants intend that, so long as the LLC only has one member, then the LLC shall be treated as a disregarded entity) for federal and, if applicable, state income tax purposes, and that each Participant and the LLC shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment.

Section 1.11 Contribution Agreement. The Manager and each Participant hereby agrees and acknowledges that each provision of this Agreement shall be subject to the provisions of the Contribution Agreement, and that, notwithstanding anything herein to the contrary, the Manager shall have the authority to amend the terms of this Agreement, together with any Schedules or Exhibits hereto, to conform the terms of this Agreement to the terms of the Contribution Agreement. The Managers and each Participant hereby also agree and acknowledge that the provisions of the Contribution Agreement shall not in any way modify the indirect investment in Spirit by Participants other than the Oaktree Fund.

ARTICLE II

CAPITAL ACCOUNTS

Section 2.1 Capital Accounts. A "Capital Account" will be established for each Participant on the books of the LLC and will be adjusted as follows:

(a) Such Participant's contributions to the capital of the LLC will be credited to his, her or its Capital Account when received by the LLC.

(b) At the end of each fiscal year of the LLC and upon dissolution and winding up of the LLC pursuant to Article V, Profits for such period allocated to such Participant pursuant to Section 3.3 shall be credited, and Losses for such period allocated to such Participant pursuant to Section 3.3 shall be debited, as the case may be, to such Participant's Capital Account.

(c) Any amounts distributed to such Participant will be debited against his, her or its Capital Account.

(d) Such Participant's Capital Account will otherwise be adjusted in accordance with Treasury Regulation Section 1. 704-1(b)(2)(iv).

Section 2.2 Computation of Amounts. For purposes of computing the amount of any item of income, gain, loss, deduction or expense to be reflected in Capital Accounts, the determination, recognition and classification of each such item shall be the same as its determination, recognition and classification for federal income tax purposes; provided that

(a) any income that is exempt from Federal income tax shall be added to such taxable income or losses and any expenditures of the LLC described in Section 705(a)(2)(B) of the Code or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(i), shall be subtracted from such taxable income or losses;

(b) if the Book Value of any LLC property is adjusted pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(e) (in connection with a distribution of such property) or (f) (in connection with a revaluation of Capital Accounts), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property; and

(c) if property that is reflected on the books of the LLC has a Book Value that differs from the adjusted tax basis of such property, depreciation, amortization and gain or loss with respect to such property shall be determined by reference to such Book Value.

Section 2.3 Distribution in Kind. To the extent required by the Code or as otherwise deemed desirable by the Manager, if securities are to be distributed in kind to the Participants pursuant to this Agreement, (i) such securities shall first be written up or down pursuant to Section 2.2(b) to their value (as determined pursuant to Article VI as of the date of such distribution), (ii) the Capital Accounts of the Participants shall be adjusted immediately prior to the distribution as if such securities were sold at their value (as so determined) and (iii) the value of such securities (as so determined) received by each Participant shall be debited against his, her or its respective Capital Account at the time of distribution.

ARTICLE III
DISTRIBUTIONS AND ALLOCATIONS

Section 3.1 Distributions. Distributions of cash or other assets of the LLC shall be made at such times and in such amounts as the Manager may determine. Unless the Manager and the Members determine otherwise, distributions shall be made to Participants pro rata based on the Percentage Interest held by each Participant. Notwithstanding any provision to the contrary contained in this Agreement, the LLC shall not make a distribution to any Participant on account of his, her or its interest in the LLC if such distribution would violate Section 18-607 of the Act or other applicable law.

Section 3.2 Tax Distributions. The LLC shall, subject to having available cash (after setting aside appropriate reserves), distribute to each Member (pro rata according to their respective Percentage Interest) within 75 days after the close of each taxable year (or at such earlier times and in such amounts as determined in good faith by the Manager to be appropriate to enable the Members to pay estimated income tax liabilities) an amount equal to 46% (or, at the

Manager's sole discretion, such greater or lesser percentage as the Manager may determine in good faith from time to time, to represent the sum of the maximum marginal federal, state and local income tax rates applicable to the Members).

Section 3.3 Allocation of Profits and Losses. Except as may be required by the Code, each item of income, gain, loss, deduction or expense to the LLC shall be allocated among the Participants in proportion to the Percentage Interest held by each Participant.

ARTICLE IV

MANAGEMENT AND MEMBER RIGHTS

Section 4.1 Management Authority.

(a) The Manager shall have the sole right to manage the business of the LLC and shall have all powers and rights necessary, appropriate or advisable to effectuate and carry out the purposes and business of the LLC, and no Member, unless such Member is also the Manager (a "Managing Member"), shall have any authority to act for or bind the LLC but shall have only the right to vote on or approve the actions herein specified to be voted on or approved by the Members. The Manager shall have the sole right to vote any shares of voting securities issued to or held by the LLC and to take any actions with respect to any agreements to which the LLC may be a party..

(b) The Manager shall appoint a President and may appoint such other officers, to such terms and to perform such functions as the Manager shall determine in its sole discretion; provided that the President shall, at all times, be a U.S. Citizen and at least two-thirds of any other officers so appointed and remaining in office shall, at all times, be U.S. Citizens. The Manager may appoint, employ or otherwise contract with such other persons or entities for the transaction of the business of the LLC or the performance of services for or on behalf of the LLC as it shall determine in its sole discretion. The Manager may delegate to any such officer, person or entity such authority to act on behalf of the LLC as the Manager may from time to time deem appropriate in its sole discretion.

(c) When the taking of such action has been authorized by the Manager, any officer of the LLC or any other person specifically authorized by the Manager, may execute any contract or other agreement or document on behalf of the LLC and may execute and file on behalf of the LLC with the Secretary of State of the State of Delaware any certificates of amendment to the LLC's Certificate, one or more restated certificates of formation and certificates of merger or consolidation and, upon the dissolution and completion of winding up of the LLC, at any time when there are no Members, or as otherwise provided in the Act, a certificate of cancellation canceling the LLC's Certificate.

(d) The Manager may resign at any time upon ten days' prior notice to the Members. Upon such resignation, the Manager may appoint a successor Manager; provided that such successor Manager must be approved by the affirmative vote of a

Majority in Interest of the Members. Upon such resignation, a successor Manager, who must be a U.S. Citizen, shall be elected by an affirmative vote of a Majority in Interest of the Members.

(e) All decisions regarding the management and affairs of the LLC shall be made by the Manager.

Section 4.2 Indemnification. The LLC shall fully protect, indemnify and hold harmless, to the fullest extent permitted under the Act (including, without limitation, indemnification for negligence, gross negligence and breach of fiduciary duty, in each case to the extent so authorized under the Act) as amended from time to time (but, in the case of any such amendment, only to the extent that such amendment permits the LLC to provide indemnification rights broader than the Act permitted the LLC to provide prior to such amendment), the Manager and each Participant, and each of their respective equityholders, directors, officers, partners, members, managers, controlling persons, agents and employees, against all losses, liabilities, damages or expenses (including amounts paid for attorneys' fees and judgments and settlements in connection with any threatened, pending or completed action, suit or proceeding) to which any such person or entity directly or indirectly suffers by virtue of any action taken or omission by such person or entity in connection with his or its involvement with the LLC or any subsidiary of the LLC (including serving as a manager, officer, director, consultant or employee of any subsidiary of the LLC), but only to the extent the Manager, in its sole discretion, determines that such action or omission does not violate this Agreement or any other agreement to which such person or entity is a party or by which such person or entity is bound and, with respect to any criminal action or proceeding, was taken without reasonable cause to believe such conduct was unlawful. In the sole discretion of the Manager, the LLC will pay (as incurred) the expenses incurred by such person or entity indemnifiable hereunder in connection with any proceeding in advance of its final disposition, so long as the LLC receives a written undertaking (reasonably acceptable to the Manager) by such person or entity to repay the full amount advanced if there is a final determination that such person or entity is not entitled to indemnification as provided herein. The LLC may, to the extent authorized from time to time by the Manager, grant rights of indemnification and advancement of expenses to any employee, officer or agent of the LLC.

Section 4.3 Restrictions on Transfers. No Participant shall sell, assign, transfer or otherwise dispose of, whether voluntarily or involuntarily or by operation of law (a "Transfer"), all or any portion of his, her or its Percentage Interest, other than (i) pursuant to and in compliance with the provisions of Sections 4.4, 4.5, or 4.6 of this Agreement, or (ii) in a Permitted Transfer. For purposes of this Agreement, "Permitted Transfer" shall mean a Transfer by a Participant to any Affiliate of such Participant.

Section 4.4 Transfers by Participants other than the Oaktree Fund.

(a) At least twenty (20) days prior to any Transfer by any Other Participant (a "Transferring Participant") of all or any portion of its Percentage Interest (the "Transfer Interest") (other than any Transfer pursuant to and in compliance with the provisions of Sections 4.5 or 4.6 of this Agreement, or any Permitted Transfer), such Transferring Participant shall deliver a written notice (the "Sale Notice") to the LLC and the Oaktree Fund. The Sale Notice shall disclose the identity of the prospective transferee of the

Transfer Interest (including, in the case of any proposed transferee that is an entity, the beneficial owners thereof), and, in reasonable detail, the proposed terms and conditions of the Transfer, including the proposed price. No such Transfer shall be consummated prior to the earlier to occur of (1) the date on which the parties to the Transfer have been finally determined in accordance with this Section 4.4 and (2) the date of expiration of the 20-day period (the "Election Period") following the delivery to the LLC and the Oaktree Fund of the Sale Notice applicable to such Transfer, except with the written consent of the Oaktree Fund.

(b) The Oaktree Fund and its Affiliates (and, unless the Oaktree Fund directs otherwise by written notice to the LLC, each other Member) may elect to purchase all or any portion of the Transfer Interest at the same price and on the same terms specified in the Sale Notice by delivering written notice of such election to the LLC, the Transferring Participant and the Oaktree Fund as soon as practical but in any event within fifteen (15) days after delivery of the Sale Notice to the LLC and the Oaktree Fund. If, subject to the foregoing, more than one such Member elects to purchase the Transfer Interest, the Transfer Interest shall be allocated among such Members pro rata according to the Percentage Interests owned by each such Member. If the Members do not elect within such 15-day period to purchase all of the Transfer Interest, then, unless the Oaktree Fund directs otherwise by written notice to the LLC, the LLC may elect to purchase, at the same price and on the same terms and conditions specified in the Sale Notice, all (but not less than all) of the Transfer Interest which the Members have not elected to purchase by delivering written notice of such election to the Transferring Participant as soon as practical but in any event within twenty (20) days after delivery of the Sale Notice to the LLC. If the Members and/or the LLC have elected to purchase all of the Transfer Interest pursuant to this Section 4.4, such Transfer(s) shall be consummated as soon as practical after the delivery of the election notice(s) to the Transferring Participant, but in any event within fifteen (15) days after the expiration of the Election Period. Unless the Oaktree Fund directs otherwise by written notice to the other Members, any Member who has elected and is otherwise entitled to purchase the Transfer Interest from the Transferring Participant pursuant to this paragraph may designate (subject to the provisions of Section 4.8), by written notice to the LLC and the Oaktree Fund at least fifteen (15) days prior to the consummation of such purchase, one or more other Persons to purchase all or any portion of the Transfer Interest that such Member has elected to purchase. Notwithstanding anything to the contrary herein, all amounts payable by the Members and/or the LLC pursuant to this Section 4.4 shall be in cash or, to the extent provided in the applicable Sale Notice, installments of cash over time. If the Members and/or the LLC, collectively, do not elect to purchase all of the Transfer Interest, then neither the Members nor the LLC shall be permitted to purchase any of the Transfer Interest pursuant to this paragraph, and the Transferring Participant may, during the ninety (90) day period immediately following the expiration of the Election Period and subject to the provisions of clause (c) immediately below, Transfer all (but not less than all) of the Transfer Interest (to each such transferee in the amount described in such notice) for a cash purchase price no less than the price specified in the Sale Notice and on other terms no more favorable to the transferee(s) thereof than specified in the Sale Notice. In the event the Transfer Interest is not transferred in such manner within such 90-day period,

the Transfer Interest shall be subject to the provisions of this Section 4.4 in connection with any subsequent Transfer or proposed Transfer by an Other Participant.

(c) If the Members and/or the LLC have not elected to purchase all of the Transfer Interest to be transferred by the Transferring Participant pursuant to clause (b) above, the Oaktree Fund and its Affiliates and, unless the Oaktree Fund directs otherwise by written notice to the other Members and the LLC, each other Member may, elect to participate in the contemplated Transfer of the Transfer Interest by delivering written notice of such election to the LLC, the Transferring Participant and the Oaktree Fund as soon as practical but in any event within twenty (20) days after delivery of the Sale Notice to the Oaktree Fund. If, subject to the foregoing, any Member elects to participate in such Transfer (an "Electing Member"), the Transferring Participant and the Electing Members shall each be entitled to sell in such Transfer, at the same price (subject to the last sentence of this Section 4.4(c)) and on the same terms, a portion of its Percentage Interest equal to the product of (a) the quotient determined by dividing the Percentage Interest owned by such Member by the aggregate Percentage Interests owned by the Transferring Participant and all Electing Members, multiplied by (b) the Percentage Interest to be sold in such Transfer. The Transferring Participant will use reasonable efforts to obtain the agreement of the prospective transferee(s) to the participation of the Electing Members in any contemplated Transfer and shall not consummate any such Transfer unless each Electing Member is permitted to sell such portion of its Percentage Interest which such Electing Member is entitled to sell hereunder (the "Electing Interests") at the same price and on the same terms described herein (provided that if the prospective transferee declines to allow the participation of any Electing Member, as an alternative, the Transferring Participant may consummate the proposed Transfer so long as contemporaneously therewith the Transferring Participant offers to purchase, and assuming the prompt acceptance of such offer and cooperation by such Electing Member, the Transferring Participant purchases, the Electing Interests from such Electing Member at the price and on the other economic terms on which such Electing Member would otherwise have been entitled pursuant to this Section 4.4 to sell such Electing Interests in such Transfer).

(d) Each Electing Member (other than the Oaktree Fund and its Affiliates) shall (a) pay the expenses incurred by such Electing Member in connection with the Transfer and (b) be obligated to join in any indemnification or other obligations that the Transferring Participant and, if the Oaktree Fund or any of its Affiliates participates in such Transfer, such Oaktree Fund or such Affiliate agrees to provide in connection with such Transfer (except that, while each Member shall be obligated to make representations and warranties as to such Member's title to and ownership of its Percentage Interest, authorization, execution and delivery of relevant documents by such Member, enforceability of relevant agreements against such Member and other matters relating to such Member, to enter into covenants in respect of the proposed Transfer of such Member's Percentage Interest and to enter into indemnification obligations with respect to the foregoing, in each case to the extent that the Transferring Participant and, if the Oaktree Fund or any of its Affiliates participate in such Transfer, such Oaktree Fund or such Affiliate are similarly obligated in connection with their proposed Transfer of their Percentage Interest, no Member shall be obligated to enter into indemnification

obligations with respect to any of the foregoing to the extent relating to any representation or warranty by any other Member in respect of such other Member or such other Member's Percentage Interest). In addition, each Electing Member (including the Oaktree Fund and its Affiliates) and the Transferring Participant shall pay its Allocable Share of the aggregate out-of-pocket expenses reasonably incurred by the Transferring Participant and the Oaktree Fund and its Affiliates in connection with the Transfer. For purposes of this Section 4.4(d), a Member's "Allocable Share" of expenses means that portion of such expenses which would be borne by such Member if the total amount of such expenses were allocated to the Electing Members and the Transferring Participant in proportion to the Percentage Interest included by such Member in such Transfer.

Section 4.5 Participation Rights on Oaktree Transfers.

(a) At least fifteen (15) days prior to any Transfer of any Percentage Interest by the Oaktree Fund or any of its Affiliates (an "Oaktree Transferor") (other than any Transfer pursuant to and in compliance with the provisions of Sections 4.4 or 4.6 of this Agreement, or any Permitted Transfer), such Oaktree Transferor shall deliver a written notice (the "Tag-Along Sale Notice") to the LLC and each other Member. The Tag-Along Sale Notice shall disclose in reasonable detail the Percentage Interest that such Oaktree Transferor proposes to Transfer and the proposed price and other material terms and conditions of the proposed Transfer. Subject to the terms of this Section 4.5, in the event such Oaktree Transferor is obligated to deliver a Tag-Along Sale Notice, each other Member may elect to participate in such proposed Transfer by delivering, within ten (10) days after delivery of the Tag-Along Sale Notice, written notice to such Oaktree Transferor and the LLC stating that such Member has elected to be a Participating Member in respect of such Transfer, the Percentage Interest held by such Member and the Percentage Interest which such Member proposes to sell in such Transfer (each such Member who so elects to participate in such Transfer, a "Participating Member"). If any other Member elects to participate in such Transfer, such Oaktree Transferor and the Participating Members shall each be entitled to sell in such Transfer, at the price and on the terms described in this Section 4.5, a portion of its Percentage Interest equal to the product of (a) the quotient determined by dividing the Percentage Interest owned by such Member by the aggregate Percentage Interests owned by such Oaktree Transferor and all Participating Members, collectively, multiplied by (b) the Percentage Interest constituting Tag-Along Interests to be sold in such Transfer.

(b) Such Oaktree Transferor will use reasonable efforts to obtain the agreement of the prospective transferee(s) to the participation of the Participating Members in any contemplated Transfer, and shall not consummate any such Transfer unless each Participating Member is permitted to sell the portion of its Precentage Interest which such Participating Member is entitled to sell hereunder ("Participating Interest") in such Transfer in the amount and on the terms set forth in this Section 4.5 (provided that if the prospective transferee declines to allow the participation of any Participating Member, as an alternative, such Oaktree Transferor may consummate the proposed Transfer so long as contemporaneously therewith such Oaktree Transferor offers to purchase, and assuming the prompt acceptance of such offer and cooperation by such Participating Member, such Oaktree Transferor purchases, the Participating Interests

from such Participating Member at the price and on the other economic terms on which such Participating Member would otherwise have been entitled pursuant to this Section 4.5 to sell such Participating Interests in such Transfer). Each Participating Member transferring Participating Interests pursuant to this Section 4.5 shall (x) pay the expenses incurred by such Participating Member in connection with the Transfer as well as its Allocable Share of the expenses incurred by such Oaktree Transferor in connection with such Transfer, and (y) be obligated to join in any indemnification or other obligations that such Oaktree Transferor agrees to provide in connection with such Transfer (except that, while each Participating Member shall be obligated to make representations and warranties as to such Member's title to and ownership of its Percentage Interest, enforceability of relevant agreements against such Member and other matters relating to such Member, to enter into covenants in respect of the proposed Transfer of such Member's Participating Interests and to enter into indemnification obligations with respect to the foregoing, in each case to the extent that such Oaktree Transferor is similarly obligated in connection with its proposed Transfer of its Percentage Interest, no Member shall be obligated to enter into indemnification obligations with respect to any of the foregoing to the extent relating to any representation or warranty by any other Member in respect of such other Member or such other Member's Percentage Interest). For purposes of the foregoing, a Participating Member's "Allocable Share" of expenses means that portion of such expenses which would be borne by such Participating Member if the total amount of such expenses were allocated to such Oaktree Transferor and the Participating Members in proportion to the Percentage Interest included by such Member in such Transfer, up to an amount equal to the price received by such Member in such Transfer.

Section 4.6 Approved Sales.

(a) If the Manager approves a Sale of the LLC (an "Approved Sale"), each Participant will vote for, consent to, cooperate with and will not object or otherwise impede consummation of the Approved Sale.

(b) If the Approved Sale is structured as (i) a merger or consolidation, each Participant shall vote (to the extent such Participant has any such right to vote) its Percentage Interest to approve such merger or consolidation, whether by written consent or at a meeting (as requested by the Manager), and waive all dissenter's rights, appraisal rights and similar rights in connection with such merger or consolidation, (ii) a sale of equity securities, each Participant shall agree to sell, and shall sell all of its Percentage Interest and rights to acquire Percentage Interests on the terms and conditions so approved, or (iii) a sale of assets, each Participant shall vote (to the extent such Participant has any such right to vote) its Percentage Interest to approve such sale and any subsequent liquidation of the LLC or other distribution of the proceeds therefrom, whether by written consent or at a meeting (as requested by the Manager). In furtherance of the foregoing, (a) each Participant will take, with respect to such Participant's Percentage Interest, all necessary or desirable actions reasonably requested by the Manager in connection with the consummation of the Approved Sale of the LLC and (b) each Participant will make the same representations, warranties, indemnities and agreements as each other Participant (subject to clauses (1) and (2) below), including

without limitation, voting to approve such transaction and executing the applicable purchase agreement. In any Approved Sale, (1) each Participant shall be obligated to make representations and warranties as to such Participant's title to and ownership of its Percentage Interest, authorization, execution and delivery of relevant documents by such Participant, enforceability of relevant agreements against such Participant and other matters relating to such Participant, to enter into covenants in respect of a Transfer of such Participant's Percentage Interest in connection with such Approved Sale and to enter into indemnification obligations with respect to the foregoing, in each case to the extent that each other Participant is similarly obligated; provided that no Participant shall be obligated to enter into indemnification obligations with respect to any representations, warranties or covenants in the nature of those described in this clause (1) to the extent relating to or in respect of any other Participant or any other Participant's Percentage Interest, and (2) in no event shall any Participant be liable in respect of any indemnity obligations pursuant to any Approved Sale in an aggregate amount in excess of the total consideration payable to such Participant in such Approved Sale.

(c) The obligations of the Participants with respect to an Approved Sale are subject to the satisfaction of the following conditions: (i) upon the consummation of the Approved Sale, each Participant will receive the same form of consideration and the same portion of the aggregate consideration that such Participants would have received if such aggregate consideration had been distributed by the LLC in complete liquidation pursuant to the provisions of Section 3.1 of this Agreement; (ii) if any holders of a class of Percentage Interests are given an option as to the form and amount of consideration to be received, each holder of such class of Percentage Interests will be given the same option; (iii) each holder of then currently exercisable rights to acquire Percentage Interests will be given an opportunity to exercise such rights prior to the consummation of the Approved Sale and participate in such sale as holders of such Percentage Interests; and (iv) neither the Manager nor any of its Affiliates will receive any fees or other compensation (other than fees paid as reimbursement of expenses incurred by the Manager or one of its Affiliates) in connection with such transaction which will not be received on the same terms and conditions, pro rata based on Percentage Interest, by each other Member; provided that, payment of accrued but unpaid amounts pursuant to the terms of the Professional Services Agreement shall not be considered fees or compensation for purposes of this clause (iv).

(d) If the Manager enters into any negotiation or transaction for which Rule 506 (or any similar rule then in effect) promulgated by the Securities Exchange Commission may be available with respect to such negotiation or transaction (including a merger, consolidation or other reorganization), each Participant will, at the request of the Manager, appoint a purchaser representative (as such term is defined in Rule 501) reasonably acceptable to thethe Manager. If any Participant appoints a purchaser representative designated by the Manager, the LLC will pay the fees of such purchaser representative, but if any Participant declines to appoint the purchaser representative designated by the Manager, such Participant will appoint another purchaser representative, and such Participant will be responsible for the fees of the purchaser representative so appointed.

(e) Participants will bear their pro rata share (as if such expenses reduced the aggregate proceeds available for distribution as contemplated by Section 4.6(c)(i) above) of the costs of any sale of Percentage Interests pursuant to an Approved Sale to the extent such costs are incurred for the benefit of all Participants and are not otherwise paid by the LLC or the acquiring party. For purposes of this Section 4.6(e), costs incurred in exercising reasonable efforts to take all necessary actions in connection with the consummation of an Approved Sale in accordance with Section 4.6(a) shall be deemed to be for the benefit of all Participants, except that costs incurred by any Participant in connection with the Transfer of its own Percentage Interest or otherwise on its own behalf will not be considered costs of the transaction hereunder and will be the responsibility of such Participant.

Section 4.7 Effect of Transfers.

(a) If and to the extent any Transfer of an interest in the LLC is permitted hereunder, this Agreement (including the Schedules and Exhibits hereto) shall be amended by the Manager to reflect the Transfer of the LLC interest to the transferee, to admit the transferee as a Member and to reflect the elimination of the transferring Participant (or the reduction of such Transferring Participant's interest in the LLC) and (if and to the extent then required by the Act) a certificate of amendment to the Certificate reflecting such admission and elimination (or reduction) shall be filed in accordance with the Act. The effectiveness of the Transfer of an interest in the LLC permitted hereunder and the admission of any substitute Member pursuant to this Section 4.7 shall be deemed effective immediately prior to the Transfer of an interest in the LLC to such Participant or if later on the first date that the Manager receives evidence of such Transfer, including the terms thereof. If the transferring Participant has transferred all or any of its interest in the LLC pursuant to this Section 4.3, then, immediately following such Transfer or, if later, on the first date that the Manager receives evidence of such Transfer, including the terms thereof, the transferring Participant shall cease to be a Participant with respect to such interest.

(b) Any person or entity who acquires in any manner whatsoever any interest in the LLC, irrespective of whether such person or entity has accepted and adopted in writing the terms and provisions of this Agreement, shall be deemed by the acceptance of the benefits of the acquisition thereof to have (i) made all of the capital contributions made by, (ii) received all of the distributions received by, and (iii) agreed to be subject to and bound by all the terms and conditions of this Agreement that, any predecessor in such interest in the LLC made, received and was subject to or bound by.

Section 4.8 Member Rights; Meetings.

(a) No Member, other than a Managing Member, shall have any right, power or duty, including the right to approve or vote on any matter, except as expressly required by the Act or other applicable law or as expressly provided for hereunder.

(b) Subject to paragraph (a) above, unless a greater vote is required by the Act or as expressly provided for hereunder, the affirmative vote of a Majority in Interest of the Members entitled to vote shall be required to approve any proposed action.

(c) Meetings of the Members for the transaction of such business as may properly come before such Members shall be held at such place, on such date and at such time as the Manager shall determine. Special meetings of Members for any proper purpose or purposes may be called at any time by the Manager or the Members holding a Majority in Interest. The LLC shall deliver oral or written notice (written notice may be delivered by mail) stating the date, time, place and purposes of any meeting to each Member entitled to vote at the meeting. Such notice shall be given not less than four (4) and no more than sixty (60) days before the date of the meeting.

(d) Membership interests may be voted at a meeting of Members in person or by proxy duly executed by the Members holding the membership interests of record on the record date for such meeting fixed by the Manager. All such proxies shall be filed with the LLC prior to or at such meeting. Notwithstanding that a valid proxy is outstanding, powers of the proxy holder will be suspended if the person executing the proxy is present at the meeting and elects to vote in person.

(e) Any action required or permitted to be taken at an annual or special meeting of the Members may be taken without a meeting, without prior notice, and without a vote, provided that written consents, setting forth all proposed actions to be taken at such meeting, are signed by the Members holding at least the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members entitled to vote on such action were present and voted. Every written consent shall bear the date and signature of each Member who signs such consent. Prompt notice of the taking of action without a meeting by less than unanimous written consent shall be given to all Members who have not consented in writing to such action.

(f) The Members hereby irrevocably assign any and all of their voting power and rights pursuant to this Agreement to Oaktree Capital Management, LLC, which is a U.S. Citizen.

Section 4.9 Additional Members. Subject to Sections 4.10 and 4.12, the Manager shall have the sole right to admit additional Members upon such terms and conditions, at such time or times as the Manager shall in its sole discretion determine. In connection with any such admission, the Manager shall amend Schedule I to reflect the name, address and capital contribution of the additional Member and the new Percentage Interests of all Participants; provided that no Participant's Percentage Interest may be reduced disproportionately without its consent.

Section 4.10 Limited Preemptive Rights.

(a) If the Manager causes the LLC to issue or sell or to authorize the issuance or sale of any Additional Percentage Interests to the Oaktree Fund or any of its Affiliates after the date hereof, the Manager shall cause the LLC to offer to each Member by

written notice (an "Offer Notice") a percentage of such Additional Percentage Interests equal to the Percentage Interest then held by such Member. Each Member shall be entitled to purchase such Additonal Percentage Interests at the most favorable price and on the most favorable terms as such Additional Percentage Interests are to be sold or issued; provided that if a Person participating in such purchase of Additional Percentage Interests is required in connection therewith also to purchase other securities of the LLC, the Members exercising their rights pursuant to this Section 4.10(a) shall also be required to purchase such other securities on the same economic terms and conditions as those on which the offeree of the Additonal Percentage Interests is required to purchase such other securities. Each Member participating in such purchase shall also be obligated to execute agreements in the form presented to such Member by the Manager, so long as such agreements are substantially similar to those to be executed by other purchasers of Additional Percentage Interests (without taking into consideration any rights which do not entitle such a purchaser to a higher economic return on the Additional Percentage Interests than the economic return to which the Members participating in such transaction will be entitled with respect to Additional Percentage Interests). The purchase price for all Additional Percentage Interests offered to each Member shall be payable in cash by wire transfer of immediately available funds to an account designated by the Manager. Notwithstanding anything to the contrary contained herein, the LLC shall not have any obligation to issue securities or interests or to offer to issue any securities or interests under this Section 4.10 to any Member who is not an "accredited investor" as such term is defined under the Securities Act.

(b) Each Offer Notice delivered by the Manager to a Member in respect of any proposed issuance or sale of Additional Percentage Interests shall describe in reasonable detail the terms of the Additional Percentage Interests being offered, the purchase price thereof, the payment terms therefor and the percentage thereof offered to such Member pursuant to this Section 4.10. In order to exercise its purchase rights hereunder in respect of any issuance or sale of Additional Percentage Interests described in an Offer Notice, a Member must deliver to the Manager, during the 15-day period commencing upon such Member's receipt of such Offer Notice (the "Offering Period"), a written commitment describing its election hereunder (an "Election Notice"). If a Member fails for any reason to deliver an Election Notice to the Manager during the Offering Period with respect to a proposed issuance or sale of Additional Percentage Interests, such Member shall be deemed to have waived its rights pursuant to this Section 4.10 in respect of such issuance or sale of Additional Percentage Interests.

(c) Within the 180-day period immediately following the Offering Period, the LLC shall be entitled to sell any Additional Percentage Interests which any Member has not elected to purchase, on terms and conditions no more favorable to the offeree of such Additional Percentage Interests than those offered to Members pursuant to Section 4.10(a). Any Additional Percentage Interests offered or sold by the LLC after such 180-day period must be reoffered to each Member pursuant to the terms of this Section 4.10

Section 4.11 Termination of a Member. A person or entity will no longer be a Member for purposes of this Agreement upon an Event of Withdrawal. The Terminated Member

shall only be entitled to continue to receive allocation of Profits and Losses and distributions of the LLC, including distributions pursuant to Article V hereof, as and when paid by the LLC, to the same extent such Terminated Member was entitled to such distributions as a Member. Such Terminated Member will not be entitled to participate in any LLC decision or determination, and his, her or its successors and assigns will acquire only his, her or its right to receive allocation of Profits and Losses and to share in LLC distributions.

Section 4.12 Outside Businesses. The Manager and any Participant may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the LLC, and the LLC, the Manager and the Participants shall have no rights by virtue of this Agreement in and to such independent ventures or the income or gains derived therefrom, and the pursuit of any such venture, even if competitive with the business of the LLC, shall not be deemed wrongful or improper. Neither the Manager nor any Participant shall be obligated to present any particular investment opportunity to the LLC even if such opportunity is of a character that, if presented to the LLC, could be taken by the LLC, and the Manager and any Participant shall have the right to take for his, her or its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment opportunity.

ARTICLE V

DURATION

Section 5.1 Duration. The LLC shall be dissolved and its affairs wound up and terminated upon the first to occur of the following:

(a) the affirmative vote to such effect of the Members holding a Majority in Interest;

(b) the occurrence of a Public Offering;

(c) the occurrence of a Qualified Liquidity Event; and

(d) the entry of a decree of judicial dissolution under Section 18-802 of the Act.

Except as otherwise set forth in this Article V, the Members intend for the LLC to have perpetual existence.

Section 5.2 Winding Up.

Upon dissolution of the LLC, the LLC shall be liquidated in an orderly manner. The Manager shall be the liquidator pursuant to this Agreement and shall proceed diligently to wind up the affairs of the LLC and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne as an LLC expense. The steps to be accomplished by the liquidator are as follows:

(a) First, the liquidator shall satisfy all of the LLC's debts and liabilities to creditors other than Participants (whether by payment or the reasonable provision for payment thereof);

(b) Second, the liquidator shall satisfy all of the LLC's debts and liabilities to Participants (whether by payment or the reasonable provision for payment thereof); and

(c) Third, all remaining assets shall be distributed to the Participants in accordance with Article III.

Section 5.3 Termination. The LLC shall terminate when all of the assets of the LLC, after payment of or due provision for all debts, liabilities and obligations of the LLC, shall have been distributed to the Participants in the manner provided for in this Article V, and the Certificate of the LLC shall have been canceled in the manner required by the Act.

ARTICLE VI

VALUATION

Section 6.1 Valuation. For purposes of this Agreement, the value of any property contributed by or distributed to any Participant shall be valued as determined by the Manager and the Members.

ARTICLE VII

MEMBERSHIP INTERESTS

Section 7.1 Membership Interests. The membership interests in the LLC shall not be certificated. The name of each holder of an interest in the LLC, together with such holder's Percentage Interest and other pertinent information, shall be entered on the books of the LLC. Membership interests of the LLC shall only be transferred on the books of the LLC at the request of the holder of record thereof or such holder's attorney duly authorized in writing with such evidence of the authenticity of such authorization, and other matters as the Manager may reasonably require. In that event, it shall be the duty of the Manager to record the transaction on the books of the LLC. The Manager may appoint a bank or trust company organized under the laws of the United States or any state thereof to act as the LLC's transfer agent, registrar or both in connection with the transfer of any class or series of membership interests of the LLC.

ARTICLE VIII

BOOKS OF ACCOUNT; MEETINGS; REPORTS

Section 8.1 Books. The Manager will maintain, on behalf of the LLC, complete and accurate books of account of the LLC's affairs, which books will be open to inspection by any Member (or his authorized representative) at any time during ordinary business hours and shall be maintained in accordance with the Act.

Section 8.2 Fiscal Year. The fiscal year of the LLC shall end on December 31st of each year or such other year end as the Manager may determine in its sole discretion.

Section 8.3 Tax Matters.

(a) The income, gains, losses, deductions and credits of the LLC will be allocated, for federal, state and local income tax purposes, among the Participants in accordance with the allocation of such income, gains, losses, deductions and credits among the Participants for computing their Capital Accounts, except as otherwise provided in the Code or other applicable law.

(b) In accordance with Code Section 704(c) and the Treasury Regulations thereunder, income, gain, loss, deduction and expense with respect to any property contributed to the capital of the LLC shall, solely for tax purposes, be allocated among the Participants so as to take account of any variation between the adjusted basis of such property to the LLC for federal income tax purposes and its fair market value at the time of contribution.

(c) If the Book Value of any LLC asset is adjusted pursuant to Treasury Regulation Section 1.704.1(b)(2)(iv)(f) as provided in the definition of Book Value, subsequent allocations of items of tangible income, gain, loss, deduction and expense with respect to such asset shall take into account any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value in the same manner as under Code Section 704(c).

(d) The Tax Matters Partner (as defined below) shall use its commercially reasonable efforts to cause the LLC to furnish each Participant with a copy of the LLC's tax return and form K-1 for each fiscal year within 55 days after the end of such fiscal year, and shall in any event cause the LLC to furnish each Participant with a copy of the LLC's tax return and form K-1 for each fiscal year as soon as is reasonably practicable.

(e) The LLC hereby designates the Manager to act as the "Tax Matters Partner" (as defined in Section 6231(a)(7) of the Code) in accordance with Sections 6221 through 6233 of the Code.

(f) The Manager shall use its reasonable best efforts to cooperate with the Members to reduce any withholding on payments or distributions to the Members by the LLC to the extent permitted by then applicable law.

(g) The Manager is also the managing member of the Oaktree Fund and POF Spirit Foreign Holdings, LLC, a Delaware limited liability company ("POF Foreign"), which has also acquired shares of the Class A Convertible Preferred Stock of Spirit as of the date hereof pursuant to the terms of the Recap Agreement. The Manager hereby agrees that its shall cause POF Foreign and the Oaktree Fund to have the same characterization for federal income tax purposes (e.g., as a pass-through entity or a corporation).

Section 8.4 Reports. In the event that the LLC receives any written materials from Spirit relating to the LLC's investment in Spirit, the LLC shall, as soon as is reasonably practicable and at the sole cost and expense of the Manager, transmit copies of such information to each of the Members of the LLC at the addresses set forth on Schedule I.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Amendments. Except as otherwise provided herein, this Agreement may be amended or modified and any provision hereof may be waived only by the Manager; provided, however, that any amendment or modification reducing disproportionately a Participant's LLC interest or other interest in the profits or losses or in distributions or increasing such Participant's capital contribution shall be effective only with such Participant's consent.

Section 9.2 Successors. Except as otherwise provided herein, this Agreement will inure to the benefit of and be binding upon the Participants and their respective legal representatives, heirs, successors and permitted assigns.

Section 9.3 Governing Law; Severability. This Agreement will be construed in accordance with the laws of the State of Delaware and, to the maximum extent possible, in such manner as to comply with all the terms and conditions of the Act. If it is determined by a court of competent jurisdiction that any provision of this Agreement is invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

Section 9.4 Notices. All notices, demands and other communications to be given and delivered under or by reason of provisions under this Agreement shall be in writing and shall be deemed to have been given when personally delivered, mailed by first class mail (postage prepaid and return receipt requested), sent by telecopy or sent by reputable overnight courier service (charges prepaid) to the addresses or telecopy numbers set forth in Schedule I hereto or to such other addresses or telecopy numbers as have been supplied in writing to the LLC.

Section 9.5 Complete Agreement; Headings, Counterparts. This Agreement terminates and supersedes all other agreements concerning the subject matter hereof previously entered into among any of the parties. Descriptive headings are for convenience only and will not control or affect the meaning or construction of any provision of this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, feminine or the neuter gender shall include the masculine, the feminine and the neuter. This Agreement may be executed in any number of counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts together will constitute one agreement.

Section 9.6 Partition. Each Participant waives, until termination of the LLC, any and all rights that it may have to maintain an action for partition of the LLC's property.

Section 9.7 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

Section 9.8 Fees and Expenses. Each as set forth to the contrary herein, each Participant shall bear its own fees and expenses with respect to its investment in the LLC; provided that, the Manager shall cause the LLC to cause Spirit to reimburse each Participant for all reasonable fees and expenses incurred by or on behalf of such Participant in connection with its initial decision to invest in the LLC and the initial negotiation, execution and delivery of this Agreement.

* * * * * * * * *

IN WITNESS WHEREOF, the parties hereto have caused this Limited Liability Company Agreement to be signed as of the date first above written.

MANAGER:

OAKTREE CAPITAL MANAGEMENT, LLC

By: _____
Name: B. James Ford
Its: Managing Director

By: _____
Name: Jordon L. Kruse
Its: Vice President

INITIAL MEMBERS:

POF SPIRIT DOMESTIC HOLDINGS, LLC

By: Oaktree Capital Management, LLC
Its: Manager

By: _____
Name: B. James Ford
Its: Managing Director

By: _____
Name: Jordon L. Kruse
Its: Vice President

[signatures continue on the following pages]

IN WITNESS WHEREOF, the parties hereto have caused this Limited Liability Company Agreement to be signed as of the date first above written.

SAHC HOLDINGS LLC

By: _____
Name: Richard L. Grubman
Its:Managing Member of Highfields Captial Managtement LP, its Managing Member

HIGHFIELDS CAPITA_ . LP

By: Highfields Associates, LLC
Its: _eneral Partner

By: _____
Name: Richard L. Grubman
Its: Managing Member

HIGHFIELDS CAPITAL II LP

By: Highfields Associates, LLC
Its: General Partner

By: _____
Name: Richard L. Grubman
Its: Managing Member

[signatures continue on the following pages]

IN WITNESS WHEREOF, the parties hereto have caused this Limited Liability Company Agreement to be signed as of the date first above written.

PAR INVESTMENT PARTNERS, L.P.

By: PAR Group, L.P.
Its: General Partner

By: PAR Capital Management, Inc.
Its: General Partner

By: Edward L. Shapiro
Name: EDWARD L. SHAPIRO
Its: _____

[signatures continue on the following pages]

IN WITNESS WHEREOF, the parties hereto have caused this Limited Liability Company Agreement to be signed as of the date first above written.

RANDOLPH STREET PARTNERS VI

By: _____
Name: JOHN WEISSENBACH
Its: _____

SCHEDULE I

MEMBERS	CAPITAL CONTRIBUTION	PERCENTAGE INTEREST
POF Spirit Domestic Holdings, LLC c/o Oaktree Capital Management, LLC 333 South Grand Avenue, 28th Floor Los Angeles, CA 90401 Telephone: (213) 830-6300 Fax: (213) 830-6394	$108,585,172.49	77.9%
SAHC Holdings LLC c/o Highfields Capital Management 200 Clarendon Street Boston, MA 02116 Attention: Richard Grubman Telephone: (617) 850-7500 Fax: (617) 850-7501 with a copy to: Joseph F. Mazella General Counsel Highfields Capital Management 200 Clarendon Street Boston, MA 02116 Telephone: (617) 850-7520 Fax: (617) 850-7620	$17,350,000	12.4%

MEMBERS	CAPITAL CONTRIBUTION	PERCENTAGE INTEREST
Highfields Capital I LP c/o Highfields Capital Management 200 Clarendon Street Boston, MA 02116 Attention: Richard Grubman Telephone: (617) 850-7500 Fax: (617) 850-7501 with a copy to: Joseph F. Mazella General Counsel Highfields Capital Management 200 Clarendon Street Boston, MA 02116 Telephone: (617) 850-7520 Fax: (617) 850-7620	$2,275,000	1.6%
Highfields Capital II LP c/o Highfields Capital Management 200 Clarendon Street Boston, MA 02116 Attention: Richard Grubman Telephone: (617) 850-7500 Fax: (617) 850-7501 with a copy to: Joseph F. Mazella General Counsel Highfields Capital Management 200 Clarendon Street Boston, MA 02116 Telephone: (617) 850-7520 Fax: (617) 850-7620	$5,375,000	3.9%

MEMBERS	CAPITAL CONTRIBUTION	PERCENTAGE INTEREST
PAR Investment Partners, L.P. One International Place Suite 2401 Boston, MA 02110 Telephone: (617) 526-8930 Fax: (617) 556-8875	$5,000,000	3.6%
Randolph Street Partners VI 200 E. Randolph Drive Chicago, IL 60601 Telephone: (312) 861-2000 Fax: (312) 861-2200	$950,000	0.6%
Total:	$139,535,172.49	100%

MANAGER

Oaktree Capital Management, LLC
333 South Grand Avenue, 28th Floor
Los Angeles, CA 90401

Telephone: (213) 830-6300
Fax: (213) 830-6394